

# Public Document Pack



<b>MEETING:</b>	Overview and Scrutiny Committee - Special Meeting to Consider Call-in
<b>DATE:</b>	Wednesday, 24 July 2019
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Council Chamber - Barnsley Town Hall

## AGENDA

### 1 Apologies for Absence - Parent Governor Representation

To receive apologies for absence in accordance with Regulation 7 (6) of the Parent Governor Representatives (England) Regulations 2001.

### 2 Declarations of Pecuniary and Non-Pecuniary Interest

To invite Members of the Committee to make any declarations of pecuniary and non-pecuniary interest in connection with the items on this agenda.

Overview and Scrutiny Issues for the Committee

### 3 Call-In of Cabinet Decision Cab.10.7.2019/6 - Appropriation of Land at Penny Pie Park for Highway Purposes (*Pages 3 - 84*)

To consider a report of the Executive Director Core Services (Item 3a attached) in respect of: a Call-in request of a Cabinet decision (Item 3b attached); the minute from the Cabinet meeting (Item 3c attached); and the Cabinet report regarding the Appropriation of land at Penny Pie Park for Highway Purposes (Item 3d attached).

Enquiries to Anna Marshall, Scrutiny Officer

Email [scrutiny@barnsley.gov.uk](mailto:scrutiny@barnsley.gov.uk)

To: Chair and Members of Overview and Scrutiny Committee:-

Councillors Ennis OBE (Chair), Bowler, Carr, T. Cave, Clarke, Felton, Fielding, Frost, Gollick, Green, Daniel Griffin, Hand-Davis, Hayward, Higginbottom, Hunt, W. Johnson, Leech, Lodge, Lofts, Makinson, McCarthy, Mitchell, Newing, Noble, Phillips, Richardson, Smith, Stowe, Sumner, Tattersall, Williams, Wilson, Wraith MBE and Wright together with co-opted Members and Statutory Co-opted Member Ms K. Morritt (Parent Governor Representative)

Electronic Copies Circulated for Information

Sarah Norman, Chief Executive

Andrew Frostdick, Executive Director Core Services

Rob Winter, Head of Internal Audit and Risk Management

Michael Potter, Service Director, Business Improvement and Communications

Martin McCarthy, Service Director, Governance, Members and Business Support  
Press

Witnesses

Item 3 (2.00pm)

- Councillor Tim Cheetham, Cabinet Spokesperson - Place (Regeneration and Culture)
- Matt Gladstone, Executive Director - Place
- David Shepherd, Service Director - Regeneration and Culture
- Rachel Allington - Major Projects Group Leader
- Ian Wilson, Group Manager – Highways and Engineering

# Item 3a

**Report of the Executive Director Core Services  
and the Executive Director Core Services,  
to the Overview and Scrutiny Committee (OSC)  
on Wednesday 24 July 2019**

**Call in of Cabinet Decision Cab.10.7.2019/6 regarding the Appropriation of land at Penny Pie  
Park for Highway Purposes**

## **1.0 Introduction**

- 1.1 This report provides Members with the necessary information required to consider the call-in request (at item 3b) received in relation to BMBC Cabinet decision Cab.10.7.2019/6 regarding the Appropriation of Land at Penny Pie Park for Highway Purposes.
- 1.2 In accordance with the BMBC procedure for the call-in of cabinet decisions, the requisite number of appropriate Members supported this call-in request ahead of the statutory deadline in relation to the BMBC Cabinet meeting held on 10<sup>th</sup> June 2019.
- 1.3 The Chair of the Scrutiny Committee has exercised their right to seek an urgent meeting of the Committee to deal with the matter as an urgent item in recognition of the public's current interest in this matter and in recognition that the next scheduled meeting of the Committee (10<sup>th</sup> September) approximates to the intended date for the signing of relevant contracts for this scheme.

## **2.0 Background**

- 2.1 The decision taken at the Cabinet meeting of 10<sup>th</sup> July is presented in the minutes from the meeting at item 3c to this report
- 2.2 The purpose of the report received by BMBC Cabinet on 10<sup>th</sup> July was to inform Members of the responses received from members of the public following the appropriation consultation procedure carried out under Section 122 of the Local Government Act 1972 as agreed in the approved A628 Dodworth Road / Broadway Junction Improvement cabinet report (Cab.25.07.18/15). In addition, the report outlined the considerations of whether approximately 1.133 hectares (11,330 square metres) of Penny Pie Park is no longer required for the purposes for which it is currently held and may be used instead, for highway purposes.
- 2.3 The Cabinet report (presented at item 3d to this report) set out the officer assessment and consideration of the representations / objections received from members of the public and the recommended conclusion after taking account of these representations.
- 2.4 The decision of Cabinet was that, under Section 122 of the Local Government Act 1972, having considered and assessed the representations received that the open space shown in Appendix 1 to the report forming approximately 1.133 hectares (11,330 square metres) of Penny Pie Park, no longer be required for the purposes for which it is currently held and may be used instead for highway purposes.

## **3.0 Call-In Position**

- 3.1 The proposition of the Members who have requested this decision be called-in suggests that Cabinet wrongly concluded that the land known as Penny Pie Park was no longer needed as a park because they were presented with misleading and incomplete evidence, meaning that a sound decision could not be made in good faith.
- 3.2 The formal call-in request, containing the reasons in support of the proposition to call-in the decision and alternate options presented for consideration is presented at item 3b to this report

## **4.0 Invited Witnesses**

4.1 The following experts have been invited to today's meeting to answer questions from the committee:

- Councillor Tim Cheetham, Cabinet Spokesperson - Place (Regeneration and Culture)
- Matt Gladstone, Executive Director - Place
- David Shepherd, Service Director - Regeneration and Culture
- Rachel Allington - Major Projects Group Leader
- Ian Wilson, Group Manager – Highways and Engineering

## **5.0 Possible Outcomes**

5.1 If the Scrutiny Committee supports the Cabinet's original decision, this decision stands and can be implemented from the date of the Scrutiny Committee concerned.

5.2 If the Scrutiny Committee supports the Members' request it can:

(i) Refer the matter back to cabinet with a recommendation for an alternate solution

(ii) Refer the matter to the Full Council for debate at its next available meeting, which may agree to refer the matter back to Cabinet for reconsideration.

## **6.0 Background Papers and Useful Links**

The full 105 responses are available to the decision makers to view via Barnsley MBC Legal services.

A628 Dodworth Road / Broadway Junction Improvement approved Cabinet report (Cab.25.07.2018/15): Restricted Item by virtue of paragraph 5 section 12A of the Local Government Act 1972 (legal proceedings)

A628 Dodworth Road / Broadway Junction Improvement Planning Application Reference: 2018/0965: <https://barnsleymbc.moderngov.co.uk/ieListDocuments.aspx?CId=136&MID=5296>

Jobs and Business Plan 2014 – 2017 (3 year review):  
<https://www.barnsley.gov.uk/media/5023/jobs-and-business-plan-2014-2017.pdf>

Housing Strategy 2014 -2033: <https://www.barnsley.gov.uk/services/housing/housing-strategies/housing-strategy/>

Adoption of the Local Plan Cabinet report (cab12.12.2018/8):  
<https://barnsleymbc.moderngov.co.uk/ieListDocuments.aspx?CId=135&MID=5172&Ver=4>

Barnsley's Adopted Local Plan and Policies Map

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made

## **7.0 Officer Contact**

Anna Marshall, Scrutiny Officer, 16<sup>th</sup> July 2019

## Item 3b

### **Call in request reference CAB 10/7/19/6** **Reasons for seeking a review of the decision**

We feel that the Cabinet wrongly concluded that the land known as Penny Pie Park was no longer needed as a park because they were presented with misleading and incomplete evidence, meaning that a sound decision could not be made in good faith.

In particular the Cabinet report:

1. Relied on the use of a flawed and unrepresentative usage survey.
2. Failed to fairly represent the extensive level of public opposition to the scheme and the objections received.
3. Failed to give due weight to the fact that the park was designated as public green space in the Council's own Local Plan, agreed in January 2019.
4. Was misleading in its assertion that only 1.2 hectares of the park was being used, when the proximity of 3 lanes of traffic will render the entire park un-useable.
5. Misrepresented the mitigation measures for the loss of green space as effective when they were in fact detrimental.
6. Failed to fairly consider alternative solutions including modal shift.
7. Failed to consider potential new development proposals in the area such as a new school.
8. Was misleading in its reference to queueing on M1 and pressure from Highways England.
9. Failed to give sufficient weight to the adverse effects on the local community of increased noise and air pollution as a result of the scheme.

### **Proposed alternative course of action**

1. Retention of the land known as Penny Pie Park as public green space.
2. Seek alternative traffic management schemes which do not require appropriation of this land for Highways purposes eg re-phasing traffic lights, active travel schemes, improved public transport network, less invasive road widening schemes.

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## Item 3c

### **Minutes Extract from the BMBC Cabinet meeting held on 10<sup>th</sup> July 2019**

Minute 31. Appropriation of land at Penny Pie Park for highway purposes  
(Cab.10.7.2019/6)

The Leader welcomed to Cabinet members of the public who were in attendance for this item. Cabinet acknowledged the concerns raised by some members of the public but equally noted concerns raised as regards congestion in and out of the town on a main arterial route. Officers were asked to again outline the need for the scheme to be undertaken and the alternative approaches that had been considered. A member of the public was invited to ask a question of Cabinet and his point was addressed. Whilst Cabinet agreed the recommendations set out in the report it was again emphasised that the Council would work with community groups such as the Friends of Penny Pie Park to ensure that all stakeholders would continue to play a part in reaching as practicable an outcome as possible.

RESOLVED that, under Section 122 of the Local Government Act 1972, having considered and assessed the representations received that the open space shown in Appendix 1 to the report forming approximately 1.133 hectares (11,330 square metres) of Penny Pie Park, no longer be required for the purposes for which it is currently held and may be used instead for highway purposes.

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**BARNSELY METROPOLITAN BOROUGH COUNCIL**

**This matter is a Key Decision within the Council's definition and has been included in the relevant Forward**

**REPORT OF THE PLACE  
EXECUTIVE DIRECTOR  
TO CABINET  
10<sup>th</sup> July 2019**

**Appropriation of Land at Penny Pie Park for Highway Purposes**

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to inform Cabinet of the responses received from members of the public following the appropriation consultation procedure carried out under Section 122 of the Local Government Act 1972 as agreed in the approved A628 Dodworth Road / Broadway Junction Improvement cabinet report (Cab.25.07.18/15). In addition, this report outlines to Cabinet, the considerations of whether approximately 1.133 hectares (11,330 square metres) of Penny Pie Park is no longer required for the purposes for which it is currently held and may be used instead, for highway purposes.
- 1.2 This report sets out the officer assessment and consideration of the representations / objections received from members of the public and the recommended conclusion after taking account of these representations.

**2. RECOMMENDATIONS**

**2.1 It is recommended that Cabinet:**

- 2.2 Decide, under Section 122 of the Local Government Act 1972, having considered and assessed the representations received that the open space shown in Appendix 1 forming approximately 1.133 hectares (11,330 square metres) of Penny Pie Park, is no longer required for the purposes for which it is currently held and may be used instead for highway purposes.**

**3. INTRODUCTION**

- 3.1 In July 2018, Cabinet approved the A628 Dodworth Road / Broadway Junction Improvement scheme (Cab.25.07.2018/15 refers) which considered the options and outlined the preferred solution to address congestion on the A628 Dodworth Road / Broadway Junction, between the town centre and M1 Junction 37. That approved in principle the appropriation of up to 6 hectares of land. The Service Director for Regeneration and Culture, was authorised to undertake the statutory consultation and then report the results of that consultation to Cabinet, assessing the representations received and making a recommendation as to whether, in the light of the representations, the land should be appropriated or not. The land now

proposed to be appropriated consists of a smaller area of Penny Pie Park, which is identified on the plan attached at Appendix 1 from public open space to highway purposes.

### Planning Permission

- 3.2 On Tuesday, 18<sup>th</sup> December 2018, the Council's Planning Regulatory Board (PRB) resolved to grant a planning application (Ref - 2018/0965) to make improvements to the A628 Dodworth Road, Broadway junction, layout attached at Appendix 2. Prior to the application being considered by PRB, a request was made to the Secretary of State, to ask him to "call in" the application, meaning that he would become the decision maker. In light of this request, the Council agreed not to issue the decision, pending confirmation from the Ministry of Housing, Communities and Local Government, as to whether or not the Secretary of State has decided to call in the application. Following the Secretary of State's decision not to call in the planning application, the planning decision notice was made public on 18<sup>th</sup> February 2019.

### Appropriation Notice

- 3.3 It is a legal requirement that the Council designates the land on which the works are to be carried out for the relevant statutory purpose; which in this case is for highway purposes. This is known as "Appropriation". The appropriation process is a standard procedure, separate to the planning process, that the Council has to carry out. There is a legal requirement under the Local Government Act 1972 to issue a public notice and to consider any representations or objections.
- 3.4 The Council published a notice of the proposed appropriation in the Barnsley Chronicle on both the 8<sup>th</sup> and 15<sup>th</sup> March 2019, as required by Section 122 of the Local Government Act 1972, inviting representations to be made in writing to the Council no later than 8<sup>th</sup> April 2019. The notice and plans were advertised on the Council's website. Copies are attached at Appendix 3 to this report.

### Consultation responses

- 3.5 105 letters were received in response to the Council's notice.
- 3.6 A summary of all the responses is set out in Appendix 4. All the letters received are available for the decision makers to view via Barnsley MBC Legal Services.
- 3.7 The grounds of objections regarding the perceived specific impact on the proposed appropriation are summarised as follows:
- Noise nuisance;
  - Loss of mature trees;
  - Impact on conservation areas;
  - concerns of potential increased parking and how traffic congestion will affect locals;
  - Concerned that this initial 'land grab' will be followed by further appropriations;
  - That the park is a public amenity that gives pleasure to thousands of people;

- That the park is used by considerably more people in the local community than the number who may benefit from any proposed school expansion;
- That the area is deficient in public open space, some parts being more than 800m from a public park or garden. Many local dwellings are flats or houses with limited garden.

#### 4. PROPOSAL AND JUSTIFICATION

##### Statutory Powers and the Law

- 4.1 Section 122 of the Local Government Act 1972 provides that “the Council may appropriate for any purpose which the Council is authorised by statute, to acquire land by agreement, any land which belongs to it and is no longer required for the purpose for which it is held immediately before the appropriation”.
- 4.2 The key procedural points are;
1. The land must already belong to the Council;
  2. The land must be no longer required for the purpose for which it is currently appropriated; and
  3. The purpose for which the Council is appropriating must be authorised by statute.
- 4.3 The case of **Dowty Boulton Paul v Wolverhampton Corporation** (1973) established that the local authority is the sole judge of whether or not the land in question is not required for the purpose for which it is held immediately before the appropriation and its decision cannot be challenged in the absence of bad faith.
- 4.4 The principles of the Dowty decision were examined in the relatively recent case of **R (Maries) v Merton LBC** (2014) EWHC 2689 (Admin) and the judge distilled the principles which apply to the consideration of any such appropriation. These are as follows:-
- 1) Whether land is still or is no longer required for a particular purpose, meaning no longer *needed* in the public interest of the locality *for that purpose*, is a question for the local authority, subject to *Wednesbury* principles, and not the court;
  - 2) The statute is concerned with relative needs or uses for which public land has been or may be put. It does not require it to fall into disuse before the authority may appropriate it for some other purpose; and
  - 3) The authority is entitled, when exercising its appropriation power, to seek to strike the balance between comparative local (public interest) needs: between the need for one use of the land and another with the wider community interests at heart. It is for it to keep under review the needs of the locality and is entitled to take a broad view of local needs.
- 4.5 The Council must apply these principles in evaluation of the appropriation proposal before it. In doing so, the Council is required to consider objections to its view on whether the land is required for its present purpose, as well as objections to its view that it should be appropriated for a new purpose.

- 4.6 As with most administrative decisions made by public authorities, the decision to appropriate land is subject to challenge by judicial review. The Council must be able to demonstrate the purpose for the appropriation and that it has taken all of the relevant considerations into account and not taken any irrelevant considerations into account. In particular, the Council must consider, having regard to the proposed new facilities for park users, and in the light of the representations made following the consultation exercise, whether the part of Penny Pie Park to which the proposed appropriation relates, is no longer required for the purposes for which it is presently held by applying the principles noted above.
- 4.7 The Council's decision must be based on the available evidence and be rational in the sense that it cannot be said that no reasonable local authority could, on the evidence before it, have arrived at that decision: **Associated Provincial Picture Houses Ltd v Wednesbury Corporation** (1948) 1 KB 223).

#### Historic Uses of the Land

- 4.8 The Council's statutory predecessor (The Mayor Aldermen and Burgesses of the County Borough of Barnsley) acquired the large majority of the land forming Penny Pie Park by way of conveyance dated 30th June 1948. At that time, the land was former brickworks as mentioned above. The land conveyed by the 1948 conveyance is not subject to restrictive covenants in favour of the former owner and the land is not held subject to charitable trusts. At a point in the 1960s or 1970s (exact date unknown), it appears that the Council took the decision to lay out the park in its current form and its use has been as public open space since then. The park was registered voluntarily at HM Land Registry in 2007 and the Official Copies and Plan, together with a 1931 conveyance mentioned (now land under Pogmoor Road) is contained within Appendix 5. The historical timeline is detailed below:
- 1861-1872: It is understood anecdotally that between 1861-1872, White Hill or Penny Pie Colliery was located within the site boundary, assumed to be centred around the two shafts seen on the 1893 map (contained within Appendix 5). Due to the dates of the maps available, this colliery does not appear on any of the maps, so it is not known where the colliery buildings were located.
  - 1893: The next map, dated 1893, shows the site to be occupied by a brick works (contained within Appendix 5). This is located against the northern site boundary, with a branch line from the railway line leading to the brickworks. To the south and east of the brickworks, two clay pits are labelled, which occupy most of the site between the brickworks and Dodworth Road to the south. A tramway is shown which connects the clay pits to the brickworks. Two old shafts are also shown in the centre of the site.
  - 1906: The map of 1906 (contained within Appendix 5) shows the clay pits and tramway have extended, with the tramway now shown to pass underneath Dodworth Road to a new pit in the southeast corner of the road. The map of 1931 (contained within Appendix 5) shows the clay pits to have extended further east and south, beyond the site boundary, and the tramway has been repositioned and now passes beneath Dodworth Road further west than it did previously. Several houses are shown along the south side of Dodworth Road, adjacent to the crossroads.

- 1956: The map of 1956 (contained within Appendix 5) shows the beginning of the closure of the brickworks, with the tramway and western clay pits no longer shown on the maps. By the 1960 map (contained within Appendix 5), the buildings associated with the brickworks have been removed, and the portion of the site to the northeast of the crossroads appears to have been infilled, with no clay pits shown. It is understood anecdotally that the clay pits on site were backfilled with domestic waste. The two old shafts in the centre of the site are still shown, and are now labelled as disused. The branch line from the main line to the south has also been removed. In the south east corner of the site, south of Dodworth road, disused clay pits are still shown. The entrance road into the brickworks from Dodworth Road is still shown. At this time, Pogmoor Road and Broadway have been constructed.
- 1969: The next map, dated 1969-1980 (contained within Appendix 5) shows a filling station on the south side of Dodworth Road, in the southeast corner of the site. To the south of this filling station, the former clay pits are labelled as a refuse tip. An electricity substation is also shown just north of the crossroads, on the east side of Pogmoor Road.
- 1973-1978: The 1973-1978 map (contained within Appendix 5) shows that factories have been built on the refuse south of the filling station. A model railway is shown towards the north of the site with a few new buildings adjacent. The two shafts in the centre of the site are no longer shown.
- 1983-1991: On the 1983-1991 map (contained within Appendix 5), the area to the northeast of the crossroads is labelled as recreation grounds, with trees located along Pogmoor Road and Dodworth Road. The crossroads have also been modified and enlarged slightly, with a left turn lane from Broadway west onto Dodworth Road.
- 2000: The map of 2000 (contained within Appendix 5) no longer shows the model railway.
- 2017: The map dated 2017 (contained within Appendix 5) shows the filling station to have been removed and replaced with a car park which serves a school to the south.
- 2019: The most recent image from Google Maps attached at Appendix 6, dated 2019 shows the current features within the park.

#### Current Land Use

- 4.9 Penny Pie Park occupies large grounds amounting to 4.59 hectares of land. It is well provided for by trees around the edges. However, the majority of the park is open grassland in the central areas. It is relatively level throughout with no significant topographical undulations. In the north west corner, it contains an equipped children's play area and a multi used games court. A footpath is located around the edges. In close proximity to the crossroad it hosts an electricity substation which comprise two single storey buildings within a compound. In the south east part of the site there is ambulance transfer pad and an associated access onto Dodworth Road for when the Embrace Children's Charity helicopter air ambulance is required to land within the park. A further non signal controlled

crossing point, which includes a pedestrian refuge in the centre of the road, is located nearby provides a crossing point to the opposite side of Dodworth Road and Horizon Community College. Both Dodworth Road and Pogmoor Road have bus stops along the sections of the road passing next to the park. These are marked out within the road and are without a dedicated layby.

### Usage Surveys

4.10 Two neutral days were identified to carry out usage surveys within Penny Pie Park. The surveys were carried out on Thursday 16<sup>th</sup> May 2019, a typical term time / working, spring, week day and Saturday 18<sup>th</sup> May 2019 between 8.30am and 7pm early evening which took place on a typical spring weekend, not coinciding with any public bank holidays / school holidays / football matches. Times were picked to coincide with expected busy park times in the day including pre-work and pre-school in the morning, lunch time, post-school afternoon and post work later afternoon / early evening.

4.11 The weather conditions for both days, as per BBC Weather forecast:

Thursday 16 <sup>th</sup> May 2019	7c to 16c with sunny intervals with a moderate breeze
Saturday 18 <sup>th</sup> May 2019	8c to 16c with light clouds and light winds

4.12 The surveys were carried out by physically walking around the park and making notes of activity / usage. On Thursday 16<sup>th</sup> May 2019, one officer carried out the usage surveys, on Saturday 18<sup>th</sup> May 2019 two officers carried out the surveys, one officer located in the vicinity of the MUGA / Children's play area and one officer on the flexi pave to the south east entrance, accessed from Dodworth Road, to ensure that all activity was accounted for, however this may have potentially resulted in some double counting in the numbers and activity.

4.13 A summary of the findings is shown below:

Activity type	Date and Time of Observation:				Date and Time of Observation:			
	Thursday 16 <sup>th</sup> May 2019				Saturday 18 <sup>th</sup> May 2019			
	08:30 to 09:00	12:30 to 13:00	15:30 to 16:00	18:30 to 19:00	08:30 to 09:00	12:30 to 13:00	15:30 to 16:00	18:30 to 19:00
Dog Walking	2	7	5	4	8	13	13	1
Activity on the Multi Use Games Area (MUGA)	7	0	4	0	0	4	17	5
Children's using the Play Area	0	2	0	8	0	4	17	0
People using the outdoor gym	2	0	0	0	0	0	3	0
People counted using / within the story trail / natural area	2	0	0	0	0	1	3	23
Resting on the grass / Using Benches	0	0	0	0	0	4	6	0
General public walking through the park (which is also used as short cut / to	2	3	11	10	2	14	24	4



Activity type	Date and Time of Observation:				Date and Time of Observation:			
	Thursday 16 <sup>th</sup> May 2019				Saturday 18 <sup>th</sup> May 2019			
	08:30 to 09:00	12:30 to 13:00	15:30 to 16:00	18:30 to 19:00	08:30 to 09:00	12:30 to 13:00	15:30 to 16:00	18:30 to 19:00
the convenience store on Pogmoor Road)								
School Children walking through the park to & from Horizon Academy	19	4	108	0	0	0	0	0
<b>Total</b>	<b>34</b>	<b>16</b>	<b>128</b>	<b>22</b>	<b>10</b>	<b>38</b>	<b>83</b>	<b>33</b>

#### General Observations:

- There was high activity in the week day at school finishing time by pupils and late afternoon early evening on the Saturday by adolescent teenagers.
- There was a steady flow of dog walkers, particularly on the Saturday, as well as the park being used as a short cut from / to Dodworth Road to Pogmoor village or convenience store which is located on Pogmoor Road adjacent to the park.

4.14 From the observations, Penny Pie Park is perceived to be used principally for informal recreational use, dog walking and as a walk through from residential areas, convenience store, school, bus stops and town centre.

### **The Proposed Scheme and its Objectives**

#### Alleviate Congestion

- 4.15 As detailed in the A628 Dodworth Road / Broadway Junction Improvement cabinet report (Cab.25.07.18/15), AECOM were commissioned in 2016 to carry out an assessment of the A628 Dodworth Road / Pogmoor Road crossroads to ascertain the current capacity of the junction, and also it's the future capacity having regard to current committed growth as well as additional planned future growth aspirations. This report concluded that the Dodworth Road / Pogmoor Road crossroads junction is at full capacity once committed developments in the vicinity (such as employment sites nearest to M1 Junction 37 Capitol Business Park) are factored in. In addition, a continued increase in traffic congestion could well jeopardise progress being made in the reduction of air pollution concentrations in the Air Quality Management Area (AQMA) between M1 J37 and Dodworth Road / Pogmoor Crossroads. Section 5.3 of this Appropriation of Land at Penny Pie Park for Highway Purposes cabinet report also provides details of the active travel initiative being promoted to encourage modal shift and also an update on the current situation of bus / rail patronage. The council is committed to continuing the delivery of initiatives to encourage active travel and modal shift, however it is recognised that it is unlikely that the modal share of active travel within the borough will increase to such an extent that it would not be necessary to improve the capacity of the Dodworth Road/Broadway/Pogmoor Road junction.
- 4.16 In addition, to the environmental impact of the congestion and any potential safety benefits, it is also important to recognise the detrimental impact on productivity as a result of increased journey times and the potential adverse impact on the town centre, which has previously experienced significant leakage of retail expenditure to out of town destinations such as Meadowhall. To address this the Council is

investing substantial amounts into regenerating the town centre but for the benefits of these investments to be fully realised it will be important to ensure that key radial routes into and out of the town centre remain relatively free-flowing, particularly during peak times.

- 4.17 The evidence therefore shows that there are compelling reasons to increase the capacity of the Dodworth Road/Broadway/Pogmoor Road junction based on existing congestion and committed development alone. Accordingly, encroachment into the public open space is unavoidable to address existing congestion and committed development. The increased capacity would also help accommodate further anticipated growth across the borough as identified in the Council's previous Core Strategy and recently adopted Local Plan (cab12.12.2018/8) and the aspirations of the borough as identified in the Council's Economic and Housing Strategies, further strengthening the case to appropriate the land for highway purposes.
- 4.18 Therefore to address the congestion issues at A628 Dodworth Road / Pogmoor Road crossroads, a scheme has been approved that replaces the existing signal controlled crossroads with a new multi lane gyratory road system, which would be built within Penny Pie Park that is located immediately adjacent to the crossroads.
- 4.19 It is evident that the existing crossroads junction operates over capacity at the present time, resulting in substantial queuing in all directions during peak hours. This would be addressed by removing the conflict that occurs between the right turns onto Broadway from the A628 Dodworth Road and the westbound movement towards the motorway from Pogmoor Road. It is predicted that this would greatly improve capacity for traffic on Dodworth Road in both directions, which would lead to less queuing.
- 4.20 The new road system would see the road system widened to up to 3 lanes of traffic. The road system has been designed as a one way loop. 3 lanes of traffic would feed into the gyratory from Dodworth Road inbound towards the town centre. A left turn lane would provide access to Pogmoor Road. Inbound from Pogmoor Road, 3 lanes would feed into the system with one lane going onwards into the town centre and 2 lanes coming back around to connect with Dodworth Road heading westbound to the M1 and new left turn lanes to Horizon and Broadway.

#### Improved Crossing Points

- 4.21 New traffic signal controlled junctions and toucan / pelican crossings would be installed in each of the 3 corners of the new road system and at the reconfigured junction with Horizon Community College. The existing section of Pogmoor Road adjacent to the park would be downgraded and replaced by the new road system for through traffic. Those properties and Whitehill Avenue would connect to the gyratory via provision of a dedicated left turn lane and a new left turn only junction.

#### Shared Footway / Cycleway

- 4.22 The gyratory would include a 3m wide shared footway and cycleway located around all sides and passing through the middle of the retained parkland in the centre of

the gyratory. In addition, the introduction of signalised Toucan crossing points will, provide safe routes for pedestrians and cyclists in the area encouraging modal shift.

#### Noise Reduction Measures

- 4.23 A 1m high gabion wall would be built along the northern and eastern edge of the new road for sound attenuation purposes. The plans also include fencing to separate the retained areas of park from the road system. Additional noise mitigation measures are shown to the west and north adjacent Pogmoor Road and the boundary with the railway line/Pogmoor Recreation Ground in the form of 1.5m high gabion basket wall and to the east in the form of 3m acoustic fence which would sit alongside the existing vegetation on that boundary to limit noise affecting the houses beyond this boundary located on Grosvenor Walk and Dodworth Road. A similar 2.4m high fence would then be built in the grass verge further to the south on the other side of Dodworth Road for the purposes of reducing sound levels at Firs Care Home at the side of the existing entrance to Horizon.

#### Loss of Greenspace Mitigations

- 4.24 To compensate for the impact of the scheme on the greenspace known as Penny Pie Park, the facilities currently on offer will be enhanced, and a high quality, functional and attractive environment for the neighbourhood area will be created. A plan showing the proposed improvements to Penny Pie Park, which have been developed in consultation with the Friends of Penny Pie Park, who are a constituted community group, is attached at Appendix 7. Consultation with this established community group will continue during design refinements and delivery.

#### Enhanced Children's Play Area

- 4.25 The current play area is a local equipped play area (LEAP) and has 5 items of play equipment, but as part of the proposals would be upgraded to Neighbourhood Equipped Play Area (NEAP). This means that it would have no less than 8 items of play equipment, and would be designed to serve a substantial residential area with a minimum play zone of 1,000sqm. The NEAP would be located in the retained section of the park that would be preserved to the north of the new road system, which is the approximate location of the current play area.
- 4.26 The nature story trail is largely unaffected by the proposals, but where necessary any features that need to be moved will be re-sited within the park.

#### New Multi Use Games Area

- 4.27 As part of the proposals, a new multi-use games area will be provided in the section of the park that would be preserved to the north of the new road system in the vicinity of the children's play area, this has a catchment area of 1200 meters

#### Outdoor Gym

- 4.28 The current Outdoor Gym will be re-sited in the section of the park that would be preserved to the north of the new road system in the vicinity of the children's play area and new multi-use games area.

## Improvements to Pogmoor Recreation Ground and Sugden's Recreation Ground

- 4.29 Furthermore enhancements will be provided at Pogmoor and Sugden's Recreation Grounds located nearby, shown on plan attached at Appendix 8. This would consist of the upgrade of the equipped children's play area from Equipped Play Area (EPA) to Neighbourhood Equipped Area for Play (NEAP) standard at Sugden's Recreation Ground at Stocks Lane, which has a wider catchment area of 1,000 meters, as opposed to 400 meters. Pogmoor Recreation Ground will benefit from improved pedestrian access with provision of footpath, benches and dog fouling bins.

	<b>Current Situation</b>	<b>Proposed Scheme / Impact / Mitigations</b>
Size of park	4.59 hectares	3.46 hectares
Crossing points	5 pedestrian signalised crossing points  1 uncontrolled crossing points	14 toucan (pedestrian and cycle) signalised crossing points
Trees	<u>Penny Pie Park:</u>  Current number of trees = 239 (including recently planted community orchard of mixed trees).	<u>Penny Pie Park:</u>  Removal of 75 trees (table 4 - tree survey, planning documents reference: 2018/0965)  Planting of over 100 new extra heavy standard trees (landscape architect's current estimate)  There will be a minimum of 264 trees in Penny Pie Park after completion of the works and we are still working with the landscape architect to see if this can be increased and incorporated into the design / usage.
On-site play provision	<u>Penny Pie Park:</u>  The local equipped play area (LEAP) with a catchment area 400 meters  5 number of equipment pieces  Multi Use Games area (which has a catchment area of 1200 meters)  Story trail  Outdoor Gym Equipment	<u>Penny Pie Park:</u>  Upgraded to a Neighbourhood Equipped Play Area (NEAP) with a catchment area 1000 meters  8 number of equipment pieces  New Multi Use Games area (which has a catchment area of 1200 meters)  Story trail retained with some pieces re-sited  Outdoor Gym Equipment retained and re-sited

	<b>Current Situation</b>	<b>Proposed Scheme / Impact / Mitigations</b>
On-site footpaths	<p><u>Penny Pie Park:</u></p> <p>Flexi-pave to the north of the park from Grosvenor Walk, behind the nature trail and play equipment linking to Pogmoor Road.</p>	<p><u>Penny Pie Park:</u></p> <p>Flexi-pave to the north of the park from Grosvenor Walk, behind the nature trail and play equipment linking to Pogmoor Road.</p> <p>In addition, the creation of a new flexi-pave 3 metre shared foot / cycle path to follow current desire line through the central park area linking Pogmoor Road to Dodworth Road providing a clear dedicated route.</p>
Off-site provision	<p><u>Pogmoor Recreation Ground:</u></p> <p>Football Pitch</p>	<p><u>Pogmoor Recreation Ground:</u></p> <p>Retained Football Pitch</p> <p>Improved pedestrian access with provision of footpath, benches and dog fouling bins.</p>
Off-site provision	<p><u>Sugden's Recreation Ground:</u></p> <p>Equipped Play Area (EPA) with a catchment area of 400 meters</p> <p>3 pieces of equipment</p>	<p><u>Sugden's Recreation Ground:</u></p> <p>Upgraded to Neighbourhood Equipped Play Area (NEAP) with a catchment area 1000 meters</p> <p>8 number of equipment pieces</p>

### Air Quality

- 4.30 Version 2 of the air quality assessment was submitted in July 2018, in support of planning application 2018/0965 and the impact on air quality was a key consideration for Planning Regulatory Board. The air quality implications of the proposal have been explored, given that vehicle emission levels along Dodworth Road because of its heavy use and the amount of queuing traffic, have resulted in it being designated an Air Quality Management Area. Again, in principle, enabling traffic to flow more freely through this area has the potential to deliver air quality benefits to the existing residents in the immediate vicinity. This is not straight forward however as the results of the modelling has shown that whilst some locations, especially those nearest the crossroads would be benefitted, conditions would be worsened where the properties are located on the approach to the gyratory on Dodworth Road from the town centre.
- 4.31 However, these increases have been assessed as “slight adverse” and in those locations predicting an increase in concentrations of nitrogen dioxide gas, these concentrations would remain within the air quality objective. Elsewhere, the scheme is predicted to have “negligible” or a “slight to substantial beneficial” impact. For this reason the Air Quality Pollution Control Officer has resolved not to object to the

application. Accordingly, where emissions are forecast to increase, because they will remain within the objective, the effects are not considered to be sufficient to warrant objection. Moreover, in the areas where the modelling exercise predicted concentrations to be currently above the objective, residents stand to benefit from the scheme. Accordingly, the proposal complies with Core Strategy policy CSP41 and Local Plan policy AQ1.

### Summary

- 4.32 The decision to award the planning decision was made in accordance with the development plan considering the need for the proposal and existing highway conditions, the assessment of alternatives including modal shift, impact on Penny Pie Park and other material considerations including residential amenity, visual impact, highway and pedestrian safety, climate change, flood risk and biodiversity.
- 4.33 Having regard to the above matters and all others raised in representations, Planning Regulatory Board considered that the benefits of the scheme attract great weight, primarily due to the lack of viable, alternative options. Although the scheme regrettably gives rise to a number of significant adverse impacts and although these can be mitigated to some extent, they nonetheless attract substantial weight. On balance therefore, whilst the proposal did not comply with the development plan, the great weight attributed to the benefits of the scheme was considered to outweigh the substantial weight given to the adverse impacts. Accordingly, other material considerations exist to justify a departure from the development plan and the application was therefore approved subject to the necessary conditions.
- 4.34 The council holds land for various statutory purposes in order to provide its functions. Such land is used only for the purpose of the function for which it was originally acquired until such time as the land is disposed of or “appropriated” for another purpose. Appropriation is the statutory procedure to change the purpose for which land is held from one statutory purpose to another provided that the land is no longer required for the purpose for which it was held immediately before the appropriation.
- 4.35 Based on the evidence provided in this report, and given the comparative needs for the alternative use of 1.133ha of the currently designated public open space, it is considered that there is a compelling case in the public interest that the 1.133ha of land identified in Appendix 1 is no longer required for the purposes of public open space and that the council appropriates from public open space to highway purposes.

## **5. CONSIDERATION OF ALTERNATIVE APPROACHES**

- 5.1 A comprehensive analysis of all the alternative approaches that were considered and discounted during the development of the preferred scheme design were included in the approved A628 Dodworth Road / Broadway Junction Improvement cabinet report (“Cab25.07.2018/15”). The detail is summarised below:
- 5.2 Do nothing: The current congestion levels and capacity constraints, in addition the level of traffic that will be generated from current planning permissions and together with the employment and housing opportunities identified in the existing Core Strategy, means that without highways improvements or a massive shift from private car usage to public transport and active travel (which the council are fully

committed to encouraging), the future growth aspirations of the borough, i.e. the current Core Strategy will be unable to be accommodated.

- 5.3 Modal Shift: The starting point for the council when seeking to address capacity issues on the network is to consider whether or not it would be possible to achieve the necessary modal shift from private car usage to more sustainable modes of transport such as public transport or active travel (cycling & walking).
- 5.4 In terms of active travel, the Council is involved in a number of initiatives to promote walking and cycling. As detailed in section 4.13 of Cab.25.07.2018/15, over the past 4 years, £3.9m external capital funding has been secured and provided improved and new cycleways with the borough and £1.1m external revenue funding has been secured to promote and encourage active travel in the borough. The Council is currently developing its Active Travel Strategy and will seek to ensure that walking and cycling routes are considered and promoted throughout the design and delivery of any potential highway improvements in the borough. However it is recognised that it is unlikely that the modal share of active travel within the borough will increase to such an extent that it would not be necessary to improve the capacity of the Dodworth Road / Broadway / Pogmoor Road junction.
- 5.5 Public Transport, Bus Patronage: As identified in section 4.14 of Cab.25.07.2018/15, bus patronage has been falling within the borough and this mirrors both the national and regional trend. To address this, the Barnsley Bus Partnership was established and is working with the commercial and statutory public transport sector to enhance the bus network, services and ticketing initiatives. However, the increasing congestion on Dodworth Road affecting journey times for buses using this corridor between Barnsley Town Centre and Dodworth Road not only makes bus use less attractive as a potential travel mode to members of the public, but in a deregulated bus market, the financial viability of providing a bus service along Dodworth Road becomes more difficult to justify. In addition to the above, the Dodworth Road corridor does not benefit from any bus priority measures largely due not being able to be accommodated within the confines of the existing highway. The Council acquired a parcel of land at the time when the Dodworth bypass was constructed, for a potential park and ride. Regrettably, due to the confines of the site, the unfeasibility of providing bus priority measures in the vicinity and park and ride not proving to be as effective as was originally envisaged elsewhere within the borough, the proposal could not be progressed.
- 5.6 Public Transport, Rail Patronage: In contrast, the borough has seen a notable increase in rail patronage which mirrors the national trend. This has been particularly evident of the Hallam Line which can in part be attributed to the introduction of the fast Sheffield to Leeds service via Meadowhall, Barnsley and Wakefield Kirkgate. As detailed in 4.15 of Cab.25.07.2018/15, the Council published its Rail Vision in 2015, which is in the process of being updated to reflect significant changes that are likely to emerge through Northern Powerhouse Rail and HS2 as well as the commitments contained within the various franchises. Significant engagement with Network Rail, South Yorkshire Passenger Transport Executive, both city regions, rail operators and numerous other stakeholders has taken place. The outcome being that it is not possible to significantly increase rail frequencies along the Penistone Line to encourage modal shift for those commuting

into the borough from the West. In addition there are no proposals to increase the frequency of services along the Hallam Line within existing franchises so there is no prospect in the short to medium term of delivering rail improvements that would sufficiently offset car journeys along Dodworth Road during peak times.

- 5.7 Based on the above, the existing highway network has to be expanded to increase capacity. In terms of design options, BMBC Highways, Engineering and Transportation Service produced a number of alternative options to alleviate the congestion issues. (A summary of the options tested and discounted is shown below; full details are within the associated appendices).
- 5.8 **Option A** (see Appendix 3 of previously approved report Cab.25.07.2018/15) - The construction of a roundabout in the greenspace between roadway and Horizon Community College and a diverted Pogmoor Road (16 variants were tested). The short and limited stacking space for queuing vehicles limits capacity of this option for certain movements, and coupled with three adjacent road junctions, present co-ordination challenges.
- 5.9 **Option B** (see Appendix 4 of previously approved report Cab.25.07.2018/15) - The construction of left turn flares at the existing crossroads (4 variants were tested). This option requires Compulsory Purchase of third party land, along with development in the greenspace and did not resolve all forecast issues.
- 5.10 **Option C** (see Appendix 5 of previously approved report Cab.25.07.2018/15) - The construction of a roundabout in the greenspace, linking into the access to Horizon Community College and a diverted Pogmoor Road (8 variants were tested). This option presents navigational challenges for pedestrians and cyclists and does not resolve all forecast capacity issues.
- 5.11 **Option D** (see Appendix 6 of previously approved report Cab.25.07.2018/15) - The construction of a roundabout to replace the existing crossroads. This option requires Compulsory Purchase of third party land, along with development in the greenspace and did not resolve all forecast capacity issues.
- 5.12 **Option E** (see Appendix 7 of previously approved report Cab.25.07.2018/15) - The construction of a gyratory in the greenspace, with a diverted Pogmoor Road. This option did not resolve all forecast capacity issues.
- 5.13 **Option F** (see Appendix 8 of previously approved report Cab.25.07.2018/15) - The construction of a left turn flare from Dodworth Road (West) into Pogmoor Road. This option requires Compulsory Purchase of third party land to accommodate the flare, and would severely impact on residents' vehicle movements to access / egress their properties, in addition, this option did not resolve all forecast capacity issues.
- 5.14 **Option H** (see Appendix 9 of previously approved report Cab.25.07.2018/15) - Dualling of Dodworth Road between the crossroads and junction 37 of the M1, with additional short turn left flares from Dodworth Road in to both Pogmoor and Broadway. This option requires Compulsory Purchase of significant third party land to accommodate the flare and additional lanes and in addition, this option did not



provide a comparable level of capacity when compared to the preferred option G (Appendix 1 of previously approved report Cab.25.07.2018/15).

## **6. IMPLICATIONS FOR LOCAL PEOPLE/ SERVICE USERS**

- 6.1 One of the Council's key priorities is to create a thriving and vibrant economy, create more and better jobs, good business growth, and to connect local people with these opportunities.
- 6.2 The delivery of the proposed scheme is expected to secure the facilitation of employment and housing opportunities identified in the existing Core Strategy, contributing to the provision of employment land to attract new investment and / or allowing existing businesses to stay in the area and expand.
- 6.3 The delivery of any highway improvement scheme will impact on the road users during construction. However, once completed, the scheme will:
- reduce congestion and queue lengths leading to time saving benefits for road users;
  - improve safety in the vicinity of Horizon Community College;
  - improve cycling and walking routes in the vicinity

## **7. FINANCIAL IMPLICATIONS**

- 7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 7.2 The preferred scheme has been previously approved by Cabinet (Cab.25.07.2018/15 refers). There are no expected direct financial implications as a result of this report.
- 7.3 It should be noted, however, that should the appropriation decision be challenged on a legal basis, then the associated legal costs in relation to this would be incurred but are obviously unquantifiable at this stage.

## **8. EMPLOYEE IMPLICATIONS**

- 8.1 There are no issues arising directly from this report

## **9. COMMUNICATIONS IMPLICATIONS**

- 9.1 A robust communications plan has been developed with representatives from Executive Director of Core Services. This will be reviewed continually throughout the delivery of the project to ensure that timely and accurate information is provided through appropriate press releases via local press, social media/website updates, local member briefings, public information events and engagement with key stakeholders.

## **10. CONSULTATIONS**

- 10.1 Discussions have been held with local members regarding the scheme.

- 10.2 The council published a notice of the proposed appropriation in the Barnsley Chronicle on 8<sup>th</sup> and 15<sup>th</sup> March 2019 as required by section 122 of the Local Government Act 1972 inviting representations to be made in writing to the Council no later than 8<sup>th</sup> April 2019. The notice and plans were advertised on the council's website. A copy of the notice is attached at Appendix 3.
- 10.3 105 letters were received in response to the council's notice, a summary of all the responses is set out in Appendix 4 and the letters are available to the decision makers as per section 3.6 of this report.
- 10.4 Consultation has taken place with the Friends of Penny Pie Park, who are a constituted community group, with regards to the redevelopment designs for the remaining park area. Consultation with this established community group will continue during design refinements and delivery.
- 10.5 Consultation has taken place with representatives of Core Services Directorate regarding the financial implications, asset management and risk management issues.
- 10.6 Consultation has taken place with representatives of Communities Directorate, Core Services Directorate and Place Directorate regarding the greenspace implications and potential compensatory measures.

## **11. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK**

- 11.1 The scheme will contribute to the delivery of the overarching '**Thriving and Vibrant Economy**' priority set out in the Council's Corporate Plan 2015 - 2018.
- 11.2 The scheme was designed in the short term to ensure delivery of council's Core Strategy, which was the current development plan for the borough until 2026, this has now been superseded by the Local Plan (adopted 03.01.2019) up to 2033. The scheme will also provide better access to the redeveloped Town Centre from the M1 and western side of the borough, contribute delivering the following outcomes:
- Create more and better jobs and good business growth; and
  - Create more and better housing.
  - Develop a vibrant Town Centre, and
  - Strengthen our visitor economy.

## **12. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION**

- 12.1 Better connectivity, affordable and inclusive travel, a cleaner environment and a healthier population are all key aims of the Barnsley Transport Strategy 2014 – 2033, and once completed will provide better connectivity and opportunities for local people to access work and assisting in addressing social exclusion.

## **13. RISK MANAGEMENT ISSUES**

- 13.1 The project benefits from a detailed risk register which is reviewed on a regular basis by officers and the Council's Strategic Risk and Governance Manager

- 13.2 At the moment the main risk relating to this proposed development is that this report is not approved, and the council is unable to appropriate the 1.133 hectares of land for highway purposes and is unable to deliver the scheme set out in section 4.15 - 4.26. At that point, it may therefore be appropriate to consider the alternative approaches, set out in section 5 of this reports, some of which will have higher (or 'worse') risk profiles than the preferred proposal.
- 13.3 A project risk register has been developed, and risks relating to land usage; funding, consultation and traffic management issues as a result of the development have been identified. It is envisaged that if approval to appropriate the 1.133 hectares of land for highway purposes, a detailed project risk register will be produced which will become a valuable governance tool for the Strategic Sites Board.

#### **14. HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES**

- 14.1 Health and safety has been considered carefully in the development of the Project, Health and Safety issues will be identified during scheme preparation and addressed as part of the Construction (Design and Management) Regulations 2015. Road Safety Audits are undertaken at various stages of the highway improvement scheme and comprise:-Stage 1 – Completion of preliminary design, Stage 2 – Completion of detailed design, Stage 3 – Completion of construction and Stage 4 – Monitoring (12 months and 36 months)

#### **15. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

- 5.1 The delivery of the proposed scheme does not interfere with private property rights. The rights of individuals are safeguarded through the statutory planning process of securing planning consent and authority to modify the highway network.

#### **16. LIST OF APPENDICES**

Appendix 1 – Plan showing the area of land proposed to be appropriated from public open space to highway purposes

Appendix 2 – A628 Dodworth Road / Broadway Junction Improvement scheme layout

Appendix 3 – Copy Appropriation notice and accompanying plans

Appendix 4 – Summary of Appropriation Notice Consultation responses

Appendix 5 – containing Land Registry Official Copies, conveyance details and historical maps

Appendix 6 - Plan showing current features in Penny Pie Park

Appendix 7 - Plan showing the proposed improvements to Penny Pie Park

Appendix 8 - Plan showing location of Pogmoor Recreation Ground and Sugden's (Stocks Lane) Recreation Ground that will also benefit from improvements as part of the mitigations .

**17. BACKGROUND PAPERS**

The full 105 responses are available to the decision makers to view via Barnsley MBC Legal Services.

A628 Dodworth Road / Broadway Junction Improvement approved Cabinet report (Cab.25.07.2018/15)

A628 Dodworth Road / Broadway Junction Improvement Planning Application Reference: 2018/0965

Jobs and Business Plan 2014 – 2017 (3 year review)


Housing Strategy 2014 -2033

Adoption Of The Local Plan Cabinet report (cab12.12.2018/8)

Barnsley’s Adopted Local Plan and Policies Map

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made

Financial Implications/Consultation



.....  
*(To be signed by senior Financial Services officer where no financial implications)*



- AREA OF LAND TO BE APPROPRIATED FOR HIGHWAY PURPOSES (Area = 1.133 Ha)
- PENNY PIE PARK BOUNDARY

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COMPUTER FILE NAME



**BARNSLEY**  
Metropolitan Borough Council

**PENNY PIE PARK APPROPRIATION OF LAND  
FOR HIGHWAY PURPOSES**

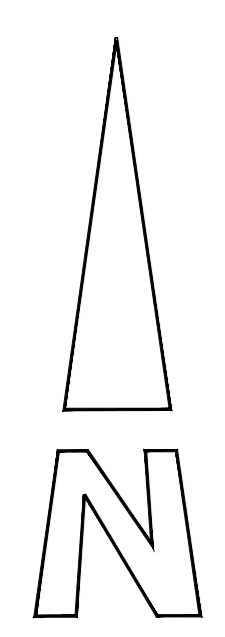
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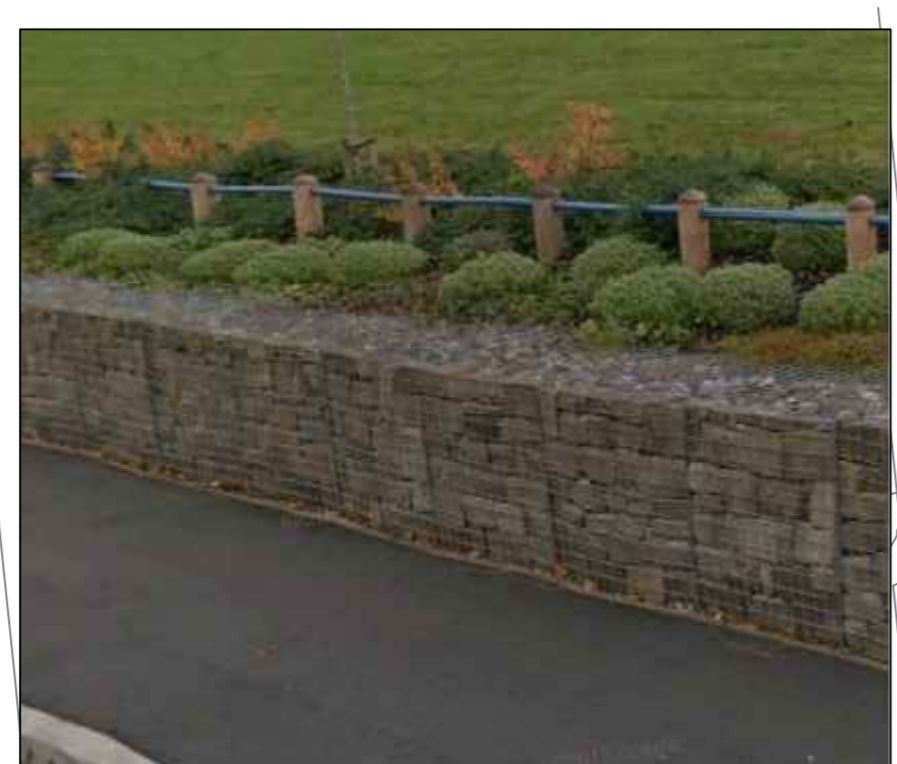
Paul Castle Service Director, Place Directorate  
Environment & Transportation (Business Unit 6)  
P.O. Box 601, Westgate Plaza One, Westgate  
Barnsley. S70 9FA  
Tel. (01226) 770770 Fax. (01226) 772222

Drawing No. **HD/7122127/PH01**

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EXAMPLE OF MUGA



GABION BASKETS WITH COURSED STONE FRONT AND SOLID CORE 1.5m HIGH



PARK BOW TOP FENCING



PLAY AND LEISURE NEAP



EXAMPLE OF PARK ENTRANCE ARCHWAY FEATURE



PARK BENCH TYPE

EXISTING CYCLE ROUTE TO BROADWAY (VIA CROWN HILL ROAD, MOORLAND AVENUE AND WOODLAND DRIVE)



LOW TIMBER BOLLARD & RAIL

**KEY**

- CARRIAGEWAY
- 3M WIDE SHARED USE FOOTWAY/CYCLEWAY
- FOOTWAY
- GREEN SPACE
- SIGNALISED PEDESTRIAN CROSSING POINT (INCORPORATING CYCLE FACILITIES WHERE REQUIRED)
- PROPOSED STOP LINE
- PROPOSED BOW TOP FENCING
- PROPOSED LOW TIMBER BOLLARD AND RAIL
- PROPOSED AREAS OF REPLACEMENT TREE PLANTING INCORPORATING ORNAMENTAL SHRUB PLANTING, NATIVE TREE AND SHRUB SCREEN PLANTING - REFER TO LANDSCAPE VISUAL IMPACT ASSESSMENT
- EXISTING TREE TO BE REMOVED
- TREE PROTECTION AREA



ACOUSTIC BARRIER

POTENTIAL BUS STOP LOCATION - TO BE AGREED

EXISTING EMERGENCY HELICOPTER LANDING AREA TO BE RELOCATED



EXAMPLE OF PARK ENTRANCE ARCHWAY FEATURE

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Rev.	By	Amendments	Date
A		Addition of proposed park features, noise barriers, trees to be removed/retained, new trees to be planted and change to key	Nov 18



Project  
**A628 DODWORTH RD / BROADWAY JUNCTION IMPROVEMENT**

Drawing title  
**GENERAL LAYOUT**

Scale	Drawn	Checked	Date
1:500			NOV 2018

Drawing No.	Revision	File
HD/7122127/C/1	A	

Paul Castle Service Director Place Directorate Environment & Transportation (Business Unit 6)  
P.O. Box 601, Westgate Plaza One, Westgate Barnsley. S70 9FA  
Tel. (01226) 770770 Fax. (01226) 772222

**NOTES**  
CONSULTATION IS CURRENTLY TAKING PLACE WITH SYPTE AND STAGECOACH OVER NEW BUS STOP PROVISION  
CONSULTATION IS ONGOING WITH EMBRACE CHILDRENS CHARITY REGARDING ACCOMMODATING THEIR AIR AMBULANCE EITHER ON OR OFF SITE

FOR EXISTING STORY TRAIL REFER TO DWG HD/7122127/C/2

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**Appendix 3**  
**Copy of Appropriation Notice and Plan**

**BARNSLEY METROPOLITAN BOROUGH COUNCIL**  
**LOCAL GOVERNMENT ACT 1972 - SECTION 122(1), (2A)**  
**APPROPRIATION OF PUBLIC OPEN SPACE**

**PROPOSED APPROPRIATION OF LAND AT PENNY PIE PARK, DODWORTH ROAD, BARNSLEY**

**NOTICE IS HEREBY GIVEN** that Barnsley Metropolitan Borough Council intends to appropriate for public highway purposes an area of approximately 1.133 hectares of land at Penny Pie Park, Dodworth Road, Barnsley. The land is part of land presently classed as Public Open Space. The land is intended to be used for the purpose of a new highway scheme to alleviate traffic congestion and thereby to reduce air pollution.

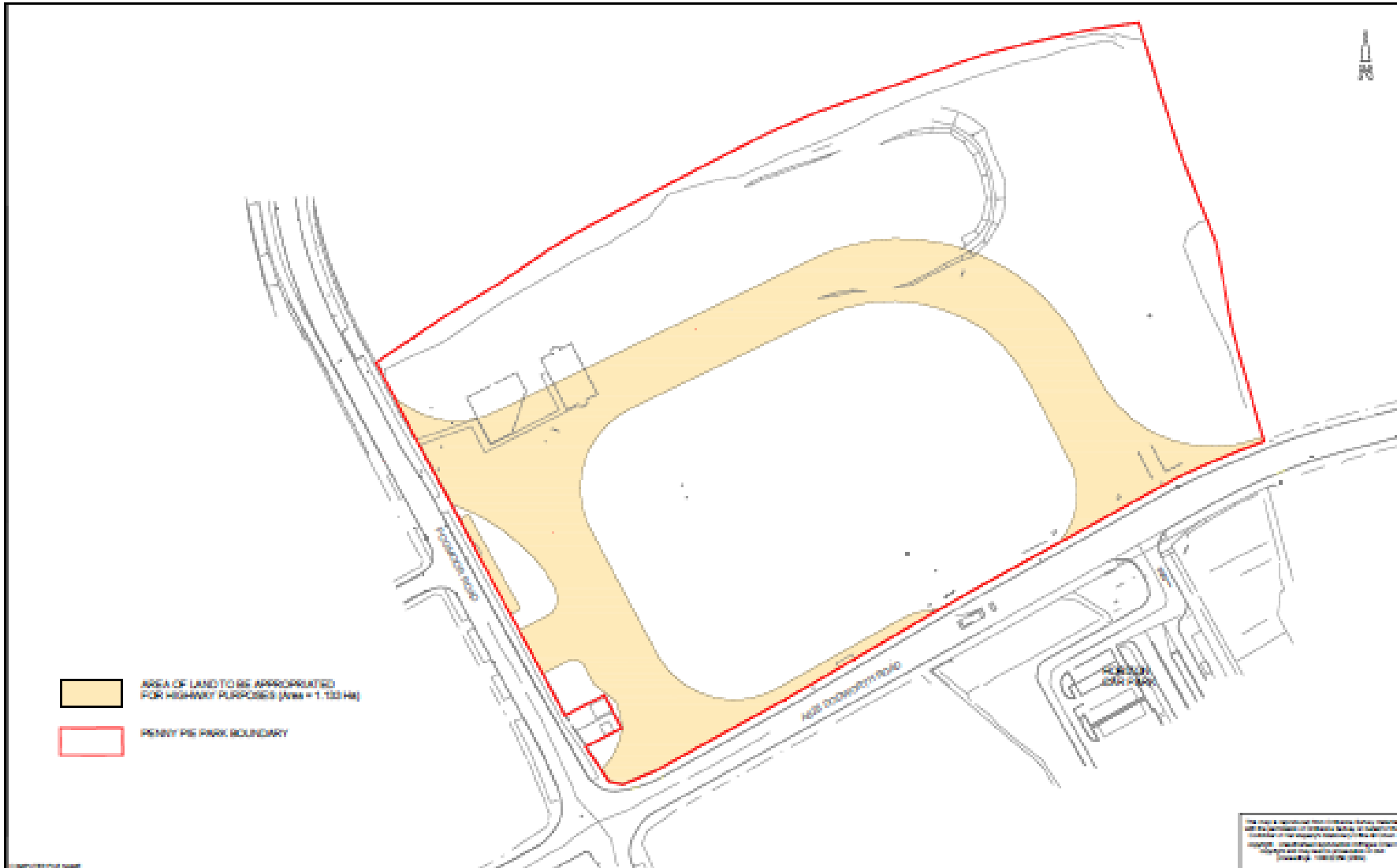
A copy of the plan showing the area in question may be inspected free of charge during normal office hours at Central Library, Wellington House, 36 Wellington Street, Barnsley, S70 1WA. (Plan reference: HD 7122127-PH01). It can also be viewed at [www.barnsley.gov.uk/services/regeneration/key-projects/](http://www.barnsley.gov.uk/services/regeneration/key-projects/)



Any person having any objection to the proposed appropriation should state the grounds of their objection in writing and send it, to be received NO LATER THAN 8<sup>th</sup> April 2019, either by post to A.C Frosdick LLB, Dip LG, Executive Director of Core Services and Solicitor to the Council, BMBC Legal Services, PO Box 600, Barnsley S70 9EZ, or by e-mail to [pennypiepark@barnsley.gov.uk](mailto:pennypiepark@barnsley.gov.uk), quoting reference CR/HT/401/01

David Shepherd

Service Director, Regeneration and Property

Dated 8<sup>th</sup> March 2019



 AREA OF LAND TO BE APPROPRIATED FOR HIGHWAY PURPOSES (Area = 1.123 Ha)  
 PENNY PIE PARK BOUNDARY

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**PENNY PIE PARK APPROPRIATION OF LAND FOR HIGHWAY PURPOSES**

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Checked	File
	7122127.1

Paul Castle, Service Director, Place Director  
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 Barnsley, S70 9FA  
 Tel: 0114208 1700 Fax: 0114208 17000  
 Drawing No. HD/7122127/PH01

## Appendix 4

### Summary of Appropriation Notice Consultation Responses

#### Generic Points Raised

**1. There are comments that “there is no evidence” that the gyratory will achieve its objective of remedying the congestion on Dodworth Road.**

The contention that there is no evidence that the gyratory will achieve its objective is incorrect. The assessment of the proposal, alternative solutions which included alternative Junction Layouts was presented in the report fully considered by Planning Regulatory Board on 18th December 2018. Each scheme was properly modelled by experienced highway consultants using industry standard software and compared on the basis of relevant criteria including congestion alleviation and cost. The other schemes considered and rejected are also summarised in section 5, consideration of alternative approaches section of this cabinet report.

**2. That the highway scheme will have a harmful effect on air quality.**

This issue was a relevant matter in the decision whether or not to grant planning permission. The issue of air quality was fully assessed in the report considered by Planning Regulatory Board on 18th December 2018 which advised that the scheme would in some parts give rise to a “slight adverse” impact and in others “negligible” or a “slight to substantial” beneficial” impact.

**3. That the highway scheme will have a harmful effect on neighbouring occupants from traffic noise.**

The issue of noise was fully assessed in the report considered by Planning Regulatory Board on 18th December 2018 and advised that with the introduction of noise mitigations on the west and north boundary adjacent Pogmoor Road and the boundary with the railway line/Pogmoor Recreation Ground in the form of 1.5m high gabion basket wall; to the east in the form of 3m acoustic fence which would sit alongside the existing vegetation on that boundary to limit noise affecting the houses beyond this boundary located on Grosvenor Walk and Dodworth Road; a similar 2.4m high fence built in the grass verge further to the south on the other side of Dodworth Road for the purposes of reducing sound levels at Firs Care Home at the side of the existing entrance to Horizon, the vast majority of properties within the noise calculation area will not experience significant adverse impacts. Some properties stand to benefit from the scheme if they accept a Noise Insulation Regulation package of measures which will be made available to the eligible residents. Nine properties were identified as likely to experience significant adverse impacts and this negative consequence was fully considered and balanced against the advantages that the scheme would give rise to in relation to congestion alleviation.

**4. Loss of Mature trees**

Impact of tree loss was fully assessed in the report fully considered by Planning Regulatory Board on 18th December 2018. Given the arboricultural implications of the proposal are naturally something that the Tree Officer is not supportive of, however he recognises that the scheme has been designed to limit the impacts on trees as far as possible and welcomes the most up to date mitigation plans which include substantial amount of replacement tree planting by way of compensation, which at least equals the number of trees that are to be removed. **Page 35**rees is recognised in the report and

is properly balanced against the advantages of the scheme referred to above. One correspondent referred to the “fact” that the existing mature trees would be replaced by small saplings. This is not the case as extra heavy standard trees are proposed to be planted.

### **5. Highway Safety**

This representation is confined to the possibility of safety issues arising from the highway development itself and ignores the wider concern, which BMBC must take account of as highway authority of risks to safety arising from congestion and queuing of traffic on Dodworth road. In particular reference is made to the risk in the future that queuing traffic will back onto the carriageway of the M1 itself during rush hour periods. As to safety on and around the new gyratory highway this has been the subject of a stage 1 safety audit and will be subject to further staged audits of safety. The issue of safety was fully assessed the report fully considered by Planning Regulatory Board on 18th December 2018 and the conclusion reached was following completion of the detailed design an independent Stage 2 Road Safety Audit will be commissioned to identify any safety concerns which will be addressed prior to the construction phase. In addition, following the Stage 3 Road Safety Audit, which will be carried out on completion of the project, any recommendations will be considered and resolved and where appropriate implemented.

### **6. Habitat Loss**

A number of correspondents referred to habitat loss as a result of the development and loss of trees. This issue was fully assessed in the report to Planning Regulatory Board on 18th December 2018 under the heading *Biodiversity*, The report said Overall the value of the existing habitat on the site and likelihood of significant numbers of protected species is sufficiently low that the significant impacts are not envisaged. The site is not designated for its ecological value. In addition the impacts can be reduced via mitigation including carrying out tree removal works outside of bird nesting season, ensuring that no bat roosts are present prior to felling works, replacement tree planting and the provision of new habitat to encourage protected species to nest and roost at the site.

### **7. Most correspondents refer to the loss of the green space. Epithets such as “destruction” “the park being taken away” and “vandalism” are used**

The factual position is that a significant portion of the park will be lost to the new gyratory highway but 77.3% of the park will remain. Other correspondents refer to the harm to the character and tranquillity of the Park which will result from the development.

The Council accept that there will be an impact on the character of the park. Part of the area will be lost to the development and its character will be affected adversely by the new road. However the Council are required as the authority for both recreational land and highways to look at wider issues than the preservation of the park in its existing form. The Council were required to address the highway issue and looked at a range of solutions to the problem (See section 5 of this report). The comparative merits of the solutions were fully assessed prior to the making of a planning application and the reasons for choosing this particular scheme over rival schemes was fully detailed and explained and considered by Planning Regulatory Board on 18th December 2018. Once this scheme was judged to be the best and most effective approach the Council was left in the difficult position of balancing the benefits of the highway scheme against the harm that would be caused to the amenity of the park and local residents. ... making that balance the Council

came to the conclusion that the case for approving and implementing the gyratory highway scheme was more compelling than maintaining the park in its current form. The park will not be completely lost 22.7% will be given over to the highway scheme. In assessing overall public interest and the competing interests of open space and highway improvement the Council conclude that, in this case, the need for the highway works must prevail and as such the use of that part of Penny Pie Park proposed to be appropriated to Highway use is no longer required to be held by the Council for its existing purpose as public open space. In reaching this conclusion account was also taken of the works designed to improve that part of the park that will be retained following the implementation of the highway scheme. These improvements are detailed in section 4, the proposed scheme and its objectives of the cabinet report.

**Specific Points Raised**

**8. That the highway scheme would attract more traffic which would rapidly remove any benefit.**

The independent consultant that was commissioned to provide the Traffic Assessment, submitted in support of the Planning Application, has taken into account future traffic growth up to 2033.

**9. That the highway scheme would facilitate the development at Capitol Park (MU1) which would have the effect described in 8 above**

Evidence shows that there are compelling reasons to increase the capacity of the Dodworth Road/Broadway/Pogmoor Road junction based on existing congestion and committed development. However, to inform the amount of additional capacity that needs to be provided it is necessary to consider likely levels of future growth. The Council's Core Strategy, the current policy in place when the scheme was presented for consideration by Planning Regulatory Board on 18th December 2018, proposed to deliver 21,000 homes and 17,500 jobs on top of base development, and formed part of the current development plan for the borough until 2026, identifying Urban Barnsley as the area where the most development should take place in order to enhance Barnsley's role as a sub-regional town.

Future growth aspirations of the borough are also identified in the Economic and Housing Strategies and the Local Plan, which has now been adopted (Jan 2019) superseding the Core Strategy. This aims to significantly increase the local business base and number of new jobs in an attempt to close a substantial gap between the borough's job density and the regional and national averages. This is considered essential for the wellbeing and prosperity of the borough and its residents. The Core Strategy was not a spatial plan, so traffic modelling such a strategy presents a challenge. However Aecom have concluded that "it seems very reasonable to expect that the Core Strategy development would have a similar spatial distribution to the development of the emerging local plan, given the development levels in the emerging local plan and Core Strategy are broadly similar, the difference being that the Core Strategy would be delivered a few years earlier (2026 as opposed to 2033). Therefore the results of the local plan traffic modelling assessment for the junction/corridor can be used as a reasonable proxy for the purposes of understanding the potential impact of the Core Strategy".

**10 . Adverse effect on emergency services and impact on use of the park as a landing pad for ambulance.**

Reduction of congestion will benefit emergency service vehicles along with other users of the highway. The landing area is used by the Embrace Yorkshire and Humber Helicopter Service. Liaison is on-going with Embrace and it was confirmed in the Planning Report that this service would still continue to be permitted to land in the park after the development was completed. However the Council are aware that this service has been seeking alternatives.

**11. It was suggested that the congestion problem could be solved by creating a 3rd lane to the slip road at junction 37 or allow use of the hard shoulder**

The impact of the proposed highway scheme was fully considered by Highways England as a statutory consultee of Planning Process, and they have provided a formal response in favour of the planning application.

**12. Particular concern about the safety of Horizon students leaving the school.**

Reference is made to the answer given in response to objection no.5 above. Horizon were consulted as part of the planning application process and did not object to the proposed development. Safety on and around the new gyratory highway has been the subject of a stage 1 safety audit and will be subject to further staged audits of safety. The issue of safety was fully assessed the report fully considered by Planning Regulatory Board on 18th December 2018 and the conclusion reached was following completion of the detailed design an independent Stage 2 Road Safety Audit will be commissioned to identify any safety concerns which will be addressed prior to the construction phase. In addition, following the Stage 3 Road Safety Audit, which will be carried out on completion of the project, any recommendations will be considered and resolved and where appropriate implemented.

In addition, the scheme introduces a significant number of signalised toucan (pedestrian / cycle) crossing points.

**13. A particular highway issue was raised about the gyratory leading to traffic hurtling down Shaw Lane onto Racecommon Road and hence to Townend Roundabout**

A major highway improvement scheme will lead to redistribution of traffic around the network. This is true for the construction work phase and following completion of the project. However, with respect to Shaw Lane traffic calming measures are already in place to reduce traffic speed.

**14. Many correspondents complained that this proposal runs contrary to National policy and the approach being taken in a number of Cities (including Leeds and Sheffield) that congestion in future would be addressed by restricting access by vehicles to urban areas/town centres.**

The West Yorkshire Combined Authority (WYCA) Transport Strategy (August 2017) makes a very brief reference to "*balancing the needs for traffic access with creating spaces that people can live in and enjoy*". The Strategy however doesn't provide any specifics of how this would be achieved and the Leeds Transport Strategy is silent on this matter.

The approach taken by Sheffield in the Transport Strategy (June 2018), is to give certain roads different designations, and dependent on the designation, vehicle

access can be restricted. However the Sheffield Transport Strategy is clear this does not apply to roads designed to handle large volumes of traffic or to key public transport corridors. This approach would therefore not be appropriate for Dodworth Road.

There is also no contradiction with national policy as the National Planning Policy Framework (NPPF) – February 2019, is silent on restricting vehicle access to urban/town areas.

The NPPF does in section 102 encourage Local Authorities to identify and pursue opportunities to promote walking, cycling and public transport use. Improving bus journey times and punctuality of services along Dodworth Road will help achieve this and align with the Barnsley Transport Strategy's approach to promoting better connectivity. BMBC also in February 2019 adopted an Active Travel Strategy and is currently working on developing an Implementation Plan which will promote walking and cycling in Barnsley Town Centre and surrounding areas.

**15. A number of correspondents referred to the high likelihood that the scheme would fail like other highway schemes; Birdwell, Lundwood/Cundy Cross.**

The Council was required to address the highway congestions issues and looked at a range of solutions to the problem (See section 5 of this report). The comparative merits of the solutions were fully assessed prior to the making of a planning application and the reasons for choosing this particular scheme over rival schemes was fully detailed and explained and considered by Planning Regulatory Board on 18th December 2018. The independent consultant that was commissioned to provide the Traffic Assessment, submitted in support of the Planning Application, has taken into account future traffic growth up to 2033. Similar congestion schemes that have been implemented at Birdwell has proved successful.

**16. A specific respondent draws attention to a Freedom of Information response received in relation to the scheme.**

No further comment to the response provided in the Freedom of Information reply.

**17. A correspondent suggests that much of the congestion could be resolved from providing a one way traffic system for Horizon which would entail vehicles exiting the School on Broadway.**

The Council was required to address the highway congestions issues and looked at a range of solutions to the problem (see section 5 of this report). The comparative merits of the solutions were fully assessed prior to the making of a planning application and the reasons for choosing this particular scheme over rival schemes was fully detailed and explained and considered by Planning Regulatory Board on 18th December 2018. The independent consultant that was commissioned to provide the Traffic Assessment, submitted in support of the Planning Application, has taken into account future traffic growth up to 2033.

**18. That there is already insufficient open space with in the local area. That Dodworth has the least provision of open space compared with other wards. That there is no alternative park w<sup>Page 39</sup>ithin a reasonable distance. That 90% of the park would be lost as a result of the development?**

The Council was required to address the highway issue and looked at a range of solutions to the problem (see section 5 of this report). The comparative merits of the solutions were fully assessed prior to the making of a planning application and the reasons for choosing this particular scheme over rival schemes was fully detailed and explained and considered by Planning Regulatory Board on 18th December 2018. Once this scheme was judged to be the best and most effective approach the Council was left in the difficult position of balancing the benefits of the highway scheme against the harm that would be caused to the amenity of the park and local residents. In undertaking that balance the Council came to the conclusion that the case for approving and implementing the gyratory highway scheme was more compelling than maintaining the park in its current form. The park will not be completely lost, 22.7% will be given over to the highway scheme. In assessing overall public interest and the competing interests of open space and highway improvement the Council conclude that, in this case, the need for the highway works must prevail and as such the use of that part of Penny Pie Park proposed to be appropriated to Highway use is no longer required to be held by the Council for its existing purpose as public open space. In reaching this conclusion account was also taken of the works designed to improve that part of the park that will be retained following the implementation of the highway scheme. These improvements are detailed in section 4, the proposed scheme and its objectives of the cabinet report.

**19. That the use would prejudice the use of the park for fairs and galas.**

The council would not be opposed to the use of the site for fairs, Galas etc and these would be considered upon their merits as per elsewhere within the borough.

**20. The park has had a lot of investment recently which would be wasted if the scheme went ahead.**

The park will not be completely lost, 22.7% will be given over to the highway scheme. In assessing overall public interest and the competing interests of open space and highway improvement the Council conclude that, in this case, the need for the highway works must prevail and as such the use of that part of Penny Pie Park proposed to be appropriated to Highway use is no longer required to be held by the Council for its existing purpose as public open space. In reaching this conclusion account was also taken of the works designed to improve that part of the park that will be retained following the implementation of the highway scheme. These improvements are detailed in section 4, the proposed scheme and its objectives of the cabinet report.

Assets invested in the park will be retained where possible e.g. nature trail carvings and park equipment.

**21. The Park is designated in the Local Plan as Green Space.**

The Council was required to address the highway issue and looked at a range of solutions to the problem (see section 5 of this report). The comparative merits of the solutions were fully assessed prior to the making of a planning application and the reasons for choosing this particular scheme over rival schemes was fully detailed and explained and considered by Planning Regulatory Board on 18th December 2018. Once this scheme was judged to be the best and most effective approach the Council was left in the difficult position of balancing the benefits of the highway scheme against the harm that would be caused to the amenity of the park and local



residents. In undertaking that balance the Council came to the conclusion that the case for approving and implementing the gyratory highway scheme was more compelling than maintaining the park in its current form. The park will not be completely lost 22.7% will be given over to the highway scheme.

In reaching this conclusion account was also taken of the works designed to improve that part of the park that will be retained following the implementation of the highway scheme. These improvements are detailed in section 4 (The proposed scheme and its objectives) of the cabinet report.

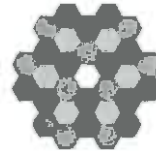
Many of the issues raised by correspondents are not properly concerned with the question of whether the land is no longer required to be held by the Council for its existing purpose as public open space. The majority of the points relate to asserted harm that will arise from the loss of the existing use and its supplanting with the proposed use. These issues are proper considerations for the determination of the planning application and were fully assessed in reaching the conclusion that planning permission should be granted.

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## **Appendix 5**

**Containing Land Registry Official Copies,  
Conveyance Details and Historical Maps**

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# Official copy of register of title

Title number SYK541480

Edition date 19.09.2008

This official copy shows the entries on the register of title on 16 APR 2019 at 14:30:00.

This date must be quoted as the "search from date" in any official search application based on this copy.

The date at the beginning of an entry is the date on which the entry was made in the register.

Issued on 16 Apr 2019.

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

This title is dealt with by HM Land Registry, Nottingham Office.

## A: Property Register

This register describes the land and estate comprised in the title.

SOUTH YORKSHIRE : BARNSELY

- 1 (07.11.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Dodworth Road Recreation Ground, Dodworth Road, Barnsley.
- 2 (07.11.2007) The mines and minerals of the land tinted pink and the land tinted blue on the title plan together with ancillary powers of working are excepted.
- 3 (07.11.2007) The land has the benefit of the rights granted by but is subject to the rights reserved by a Conveyance of the land tinted pink on the title plan and other land dated 30 June 1948 made between (1) The Governors of the George Beaumont Foundation and (2) The Mayor Aldermen and Burgesses of the County Borough of Barnsley.

-NOTE: Copy filed.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (07.11.2007) PROPRIETOR: BARNSELY METROPOLITAN BOROUGH COUNCIL of Town Hall, Barnsley, South Yorkshire S70 2TA.
- 2 (07.11.2007) A Conveyance of the land tinted blue on the title plan dated 2 April 1931 made between (1) The Governing Body of the George Beaumont Foundation and (2) The Mayor Aldermen and Burgesses of the County Borough of Barnsley contains purchaser's personal covenants.

-NOTE: Copy filed.

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Title number SYK541480

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (19.09.2008) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.  
The leases grant and reserve easements as therein mentioned.

### Schedule of notices of leases

1	07.11.2007 Edged and numbered 1 in blue	Land on the north east side of Pogmoor Road	01.10.1982 60 years from 01/12/1981	SYK161151
2	07.11.2007 Edged and numbered 2 in blue	Electricity Substation, Pogmoor Road	05.01.1960 60 years from 1/10/1959	SYK557563

End of register



HM Land Registry  
Official copy of  
title plan

Title number **SYK541480**  
Ordnance Survey map reference **SE3206SE**  
Scale **1:2500 reduced from 1:1250**  
Administrative area **South Yorkshire : Barnsley**



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**These are the notes referred to on the following official copy**

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 16 February 2018 shows the state of this title plan on 16 February 2018 at 13:44:49. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Nottingham Office .

**These are the notes referred to on the following official copy**

Title Number SYK541480

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Dated 2<sup>nd</sup> April 1931

113

The Governing Body  
of the George Beaumont  
Foundation

— Co —

The Mayor Aldermen  
and Burgesses of the  
County Borough of Barnsley

Corveance

— Cp —

Freehold land situate in  
Dodworth Road Barnsley  
in the County of York

Corveance  
2<sup>nd</sup> April 1931

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1-1931

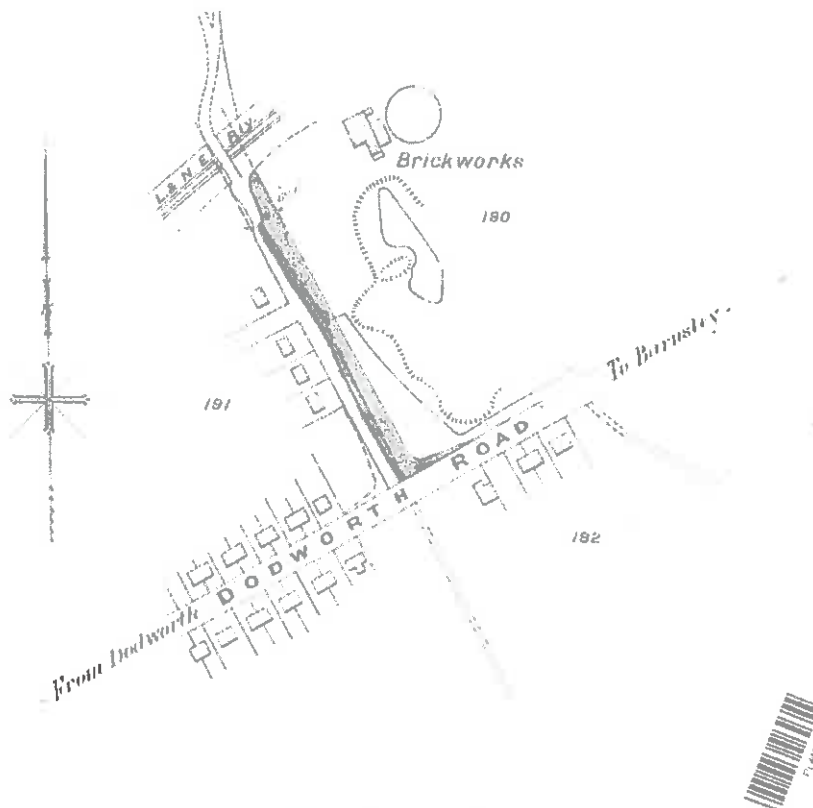
# This Conveyance

WATER & GORE LIMITED  
INCORPORATED IN ENGLAND



is made the  
second day  
of April One thousand nine hundred and thirty  
one. **Between** Henry Gashwood Attorney  
Leake Esquire the Secretary for the time being of  
the Board of Charity Commissioners for England and  
Wales and as such "the Official Trustee of Charity  
Lands" of the first part John Montague Spencer  
Maurice of Canon Hat near Barnstaple Timothy  
Creecher of Higham Harry Smith of Higham  
George Clarke Picturing of Higham aprentice  
Hamsey Miller of Dartmoor The Reverend  
Charles Randolph Purser of Darton aprentice  
Joshua Frederick William Peckitt of Happoness  
Sir Percy Richard Jackson B.C. B. of Barnstaple  
and James Lawrence Hammett of Barnstaple  
all of the County of York the Learning Body of the

Area of the portion coloured Pink  
is 2360 sq. yds. or thereabouts.



Scale 208.33 Feet to an Inch.

Charity of George Beaumont now known as The George Beaumont Foundation, hereinafter referred to as "the Vendors" of the second part and The Mayor Aldermen and Burgesses of the County Borough of Barnsley acting by the Council, hereinafter referred to as "the Corporation" of the third part.

Whereas:

1. The hereditaments hereinafter described and intended to be hereby conveyed are part of the property of the said Foundation and as such are held upon charitable trusts for educational purposes

2. The Vendors are the duly constituted Governors and Trustees of the said Foundation

3. By a Scheme made under the Endowed Schools Act and approved by His Majesty in Council on the sixth day of March One thousand nine hundred and two the legal estate in the said hereditaments was vested in the Official Trustee of Charity Lands in trust for the Foundation

4. By an Order made by the Board of Education on the twenty third day of December One thousand nine hundred and thirty the Governors were authorised within one year from the date thereof to sell the said hereditaments for Two hundred and sixty one pounds

5. The Vendors have agreed to sell the said hereditaments unto the Corporation at the price of Two hundred and sixty one pounds

Now, this Deed witnesseth as follows:

In consideration of the sum of Two hundred and sixty one pounds paid to the Vendors by the Corporation for the purchase of the fee simple of the said hereditaments (the receipt of which the Vendors hereby acknowledge) The said Henry Dashwood Staley Solicitor in pursuance of the said Order of the Board of Education and as the Official Trustee of Charitable Lands, by the Vendors in his name and on his behalf testified by their execution of these presents) hereby conveys and the Vendors as Trustees hereby convey and confirm unto the Corporation **All** that piece of land adjoining West End Road Barnsley aforesaid containing Two thousand three hundred and sixty square yards or thereabouts bounded on the North by the London and North Eastern Railway on the South by Dodworth Road Barnsley aforesaid and



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- 2) That the Corporation will make up the portion of the said piece of land hereby conveyed into part of the highway with proper sewers and drains thereunder and will for ever hereafter maintain the same
- 3) The Corporation will fence off the said piece of land from the adjoining land of the Vendors by the erection of a supporting wall of bricks to the level of the foot path to be faced in the said highway and by the erection of a fence above the said footpath of a height of not less than four feet above the said fence to consist of concrete posts and tubular rails of sufficient strength and margin to hold cattle and sheep from straying on to the adjoining lands of the Vendors
- 4) In constructing the surface water drains the Corporation will lay the same in such a way as to prevent flood water getting on to the adjoining lands of the Vendors

**In witness** whereof the Vendors on behalf of the Official Trustees of Charity Lands and also on their own behalf have hereunto set their hands and seals and the Corporation have caused their Corporate Seal to be hereunto affixed the day and year first before written

Signed, Sealed and Delivered  
by the said John Montague Spence  
Stanora Harry Lamb, George Clarke  
Pickering, Ramsay, Miles, Johna Redwin  
William Pickett and James Lawrence  
Hammerston in the presence of

*John Montague Spence*  
*Harry Lamb*

*A. M. Lane*  
Clerk  
The Corporate Seal of the Mayor  
Aldermen and Burgesses of the County  
Borough of Marnley was hereunto  
affixed in the presence of:  
*Richard J. Piper* Mayor  
*A. J. Mason*  
Town Clerk



This official copy is incomplete without the preceding notes page.

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Signed seals and delivered  
by the said Timothy Crowther  
in the presence of

J. C. Pickering

J. H. Hill  
Deed to Messrs. Amy Walker  
Signed seals and delivered  
by the said Charles Randolph  
in the presence of

Ramsay Miles

J. H. Hill  
Deed to Messrs. Amy Walker  
John Hamilton

Charles Durrer

Signed seals and delivered  
by the said Sir Percy Richard  
Jackson K.C.B. in the presence  
of

J. H. Hill

P. R. Jackson

Ernest J. Davis  
Education Office, Leeds  
Secretary for Education

M. Hammett

284

Registered at the West Riding Registry of Deeds at Wakefield  
Thirtieth of April 1931 at 10.0 a.m.  
in Volume 44 Page 665 Number 256

W. W. Harrington  
F.A.

Registrar



I certify this to be a true copy of the original  
*[Signature]*  
Barnsley M.B.C.

Yorkshire

Published 1893

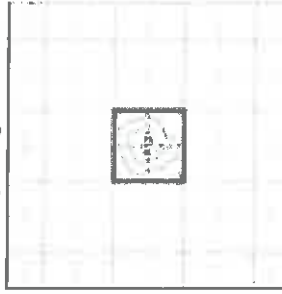
Source map scale - 1:2,500

The historical maps shown were reproduced from maps predominantly held at the scale adopted for the Ordnance Survey. The map shown in this document is at the 1:2,500 scale and was adapted for mapping purposes. The map shown in this document covered the whole of what was considered to be the cultivated parts of Great Britain. The published date given below is often some years later than the surveyed data. Before 1938, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas.

Map Name(s) and Date(s)

274.07 1865 1:2,500	274.07 1865 1:2,500
274.07 1865 1:2,500	274.07 1865 1:2,500

Historical Map - Segment A13



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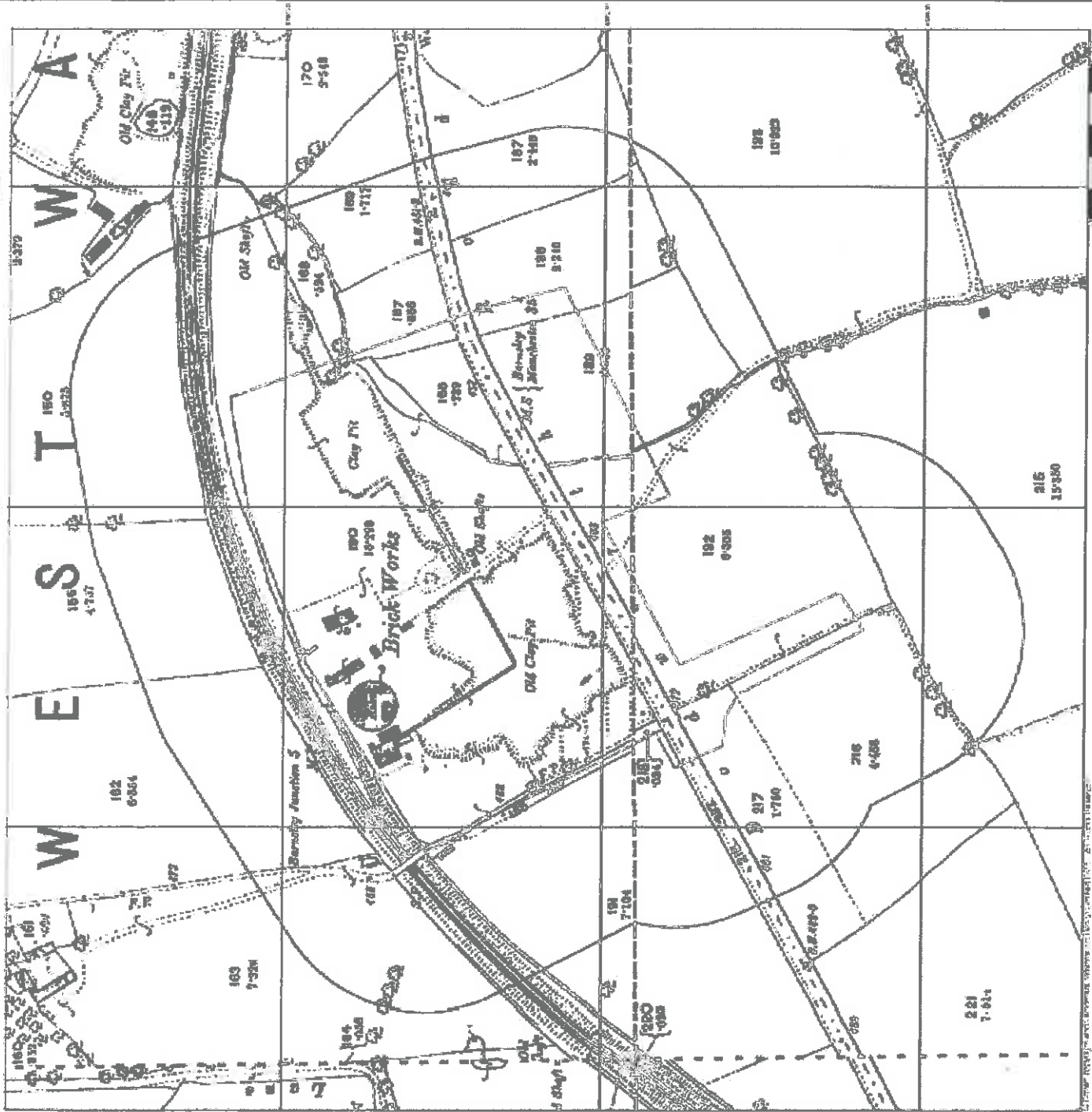
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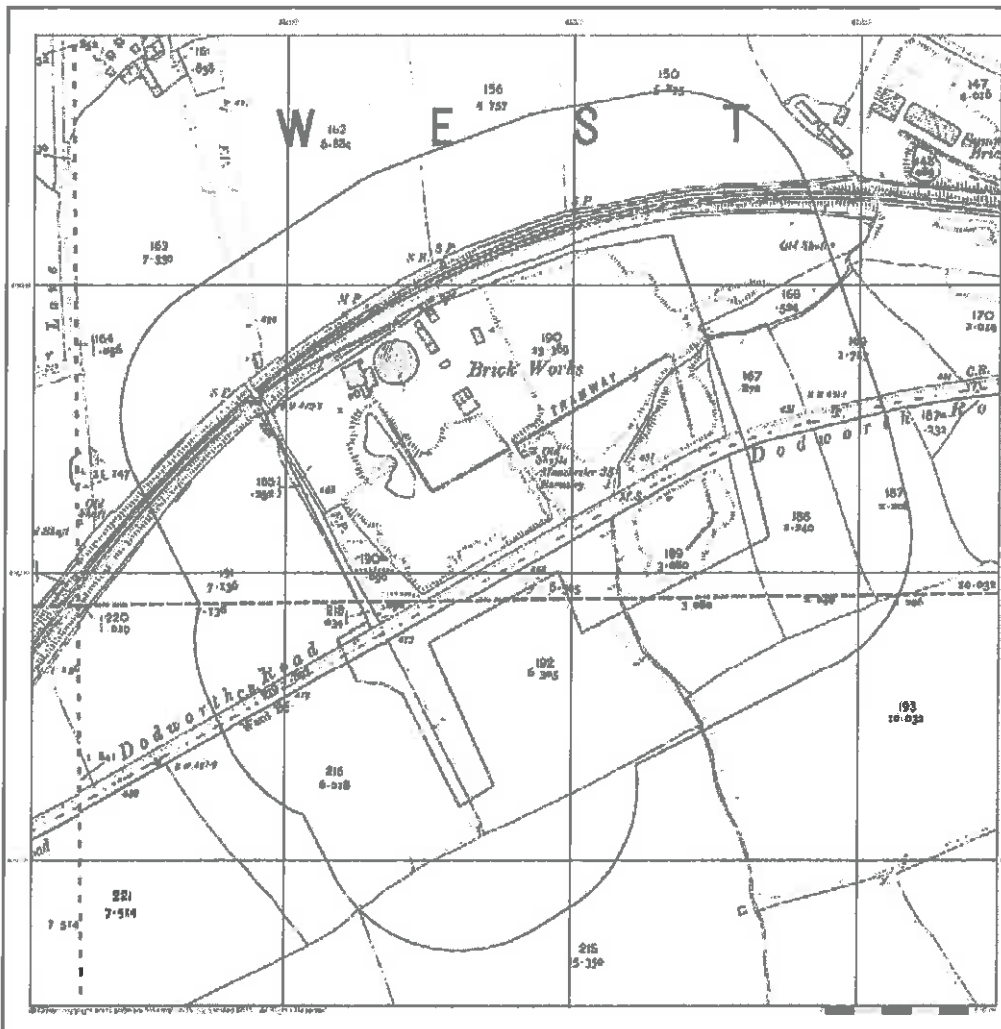
137, Pogmoor Road, BARNESLEY, S70 6PT

Landmark  
LAND MARK INFORMATION GROUP

Tel: 0844 844 9852  
Fax: 0844 844 9851  
Web: www.envirocheck.co.uk







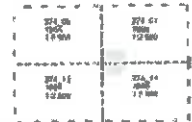
# Envirocheck

LANDMARK INFORMATION GROUP

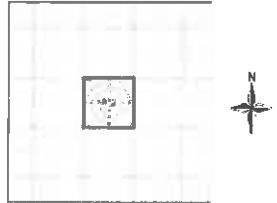
Yorkshire  
 Published 1906  
 Source map scale - 1:2,500

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Scotland in the 1840's. In 1854 the 1:2,500 scale was adopted for mapping urban areas and by 1868 it covered the whole of what were considered to be the cultivated parts of Great Britain. The published date shown below is often some years later than the surveyed date. Before 1830, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant tesserales in outlying areas.

### Map Name(s) and Date(s)



### Historical Map - Segment A13



### Order Details

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 National Grid Reference: 432760, 406280  
 Slice: A  
 Site Area (Ha): 6.88  
 Search Buffer (m): 100

### Site Details

137, Pagnmoor Road, BARNSELEY, S70 6PT

**Landmark**  
 LANDMARK INFORMATION GROUP

Tel: 0244 844 992  
 Fax: 0244 844 991  
 Web: www.envirocheck.co.uk



Yorkshire

Published 1931

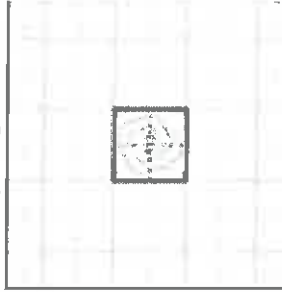
Source map scale - 1:2,500

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Scotland in 1854. The 1:2,500 scale was adopted for mapping urban areas and by 1895 covered the whole of what were considered to be the cultivated parts of Great Britain. The published date given below is often some years later than the surveyed date. Before 1938, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas.

Map Name(s) and Date(s)

271.00 1947 1:2,500	271.00 1947 1:2,500
271.00 1947 1:2,500	271.00 1947 1:2,500

Historical Map - Segment A13



**Order Details**

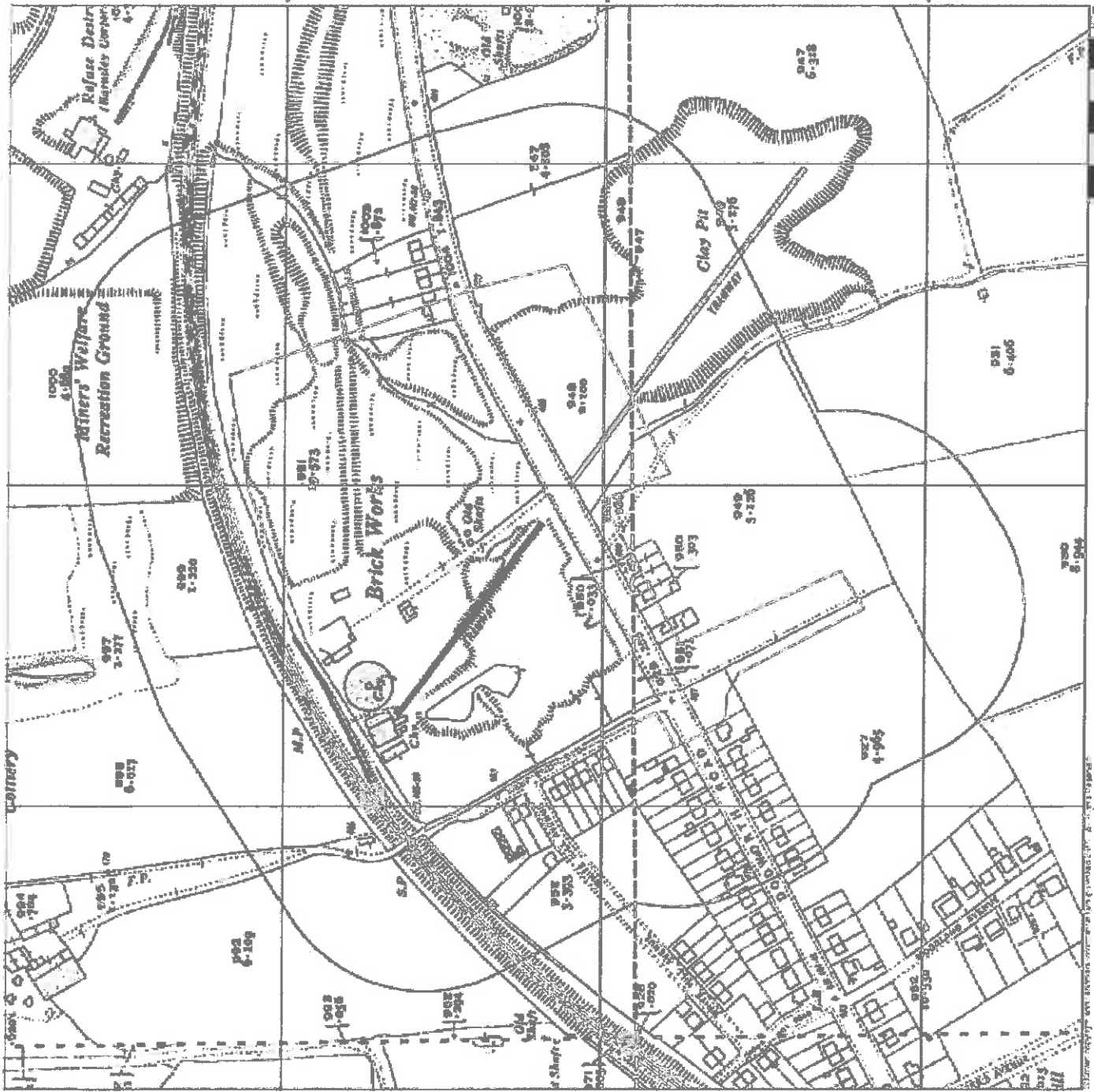
Order Number: 140225549\_1\_1  
 Customer Ref: 151069-3168  
 National Grid Reference: 432760, 406250  
 Slice: A  
 Site Area (Ha): 6.98  
 Search Buffer (m): 100

**Site Details**

137, Pogmoor Road, BARNESLEY, S70 6PT



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 Fax: 0844 844 9951  
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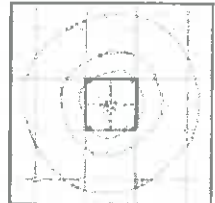
**Ordnance Survey Plan**  
**Published 1956**  
**Source map scale - 1:10,000**

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Gibraltar in the 1840's. In 1854 the 1:25,000 scale was adopted for mapping urban areas; these maps were used to update the 1:10,000 maps. The published date given therefore is often some years later than the surveyed date. Before 1930, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas. In the late 1840's, a Provisional Edition was produced, which updated the 1:10,000 mapping from a number of sources. The maps appear unfinished - with all military camps and other strategic sites removed. These maps were initially co-ordinated with the National Grid. In 1970, the first 1:10,000 maps were produced using the Transverse Mercator Projection. The revision process continued until recently, with new editions appearing every 10 years or so for urban areas.

### Map Name(s) and Date(s)

- SE10NW 1956
- SE10SW 1956

### Historical Map - Slice A



### Order Details

Order Number: 140225549\_1\_1  
 Customer Ref: 151069-3168  
 National Grid Reference: 432760, 406250  
 Slice: A  
 Site Area (Ha): 6.98  
 Search Buffer (m): 1000

### Site Details

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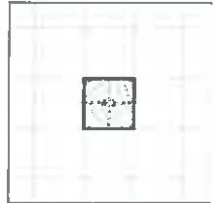
**Ordnance Survey Plan**  
**Published 1960**  
**Source map scale - 1:1,250**

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Scotland in the 1840's. In 1854 the 1:2,500 scale was adopted for mapping urban areas and by 1860 it covered the whole of what were considered to be the cultivated parts of Great Britain. The published data given below is often some years later than the surveyed date. Before 1930, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas.

### Map Name(s) and Date(s)

1:250	1:500	1:1,250	1:2,500
1:500	1:1,250	1:2,500	1:5,000
1:2,500	1:5,000	1:10,000	1:25,000
1:50,000	1:100,000	1:250,000	1:500,000

### Historical Map - Segment A13



### Order Details

Order Number: 14022549\_1\_1  
 Customer Ref: 151069-3168  
 National Grid Reference: 432760, 406250  
 Site: A  
 Site Area (Ha): 5.98  
 Search Buffer (m): 100

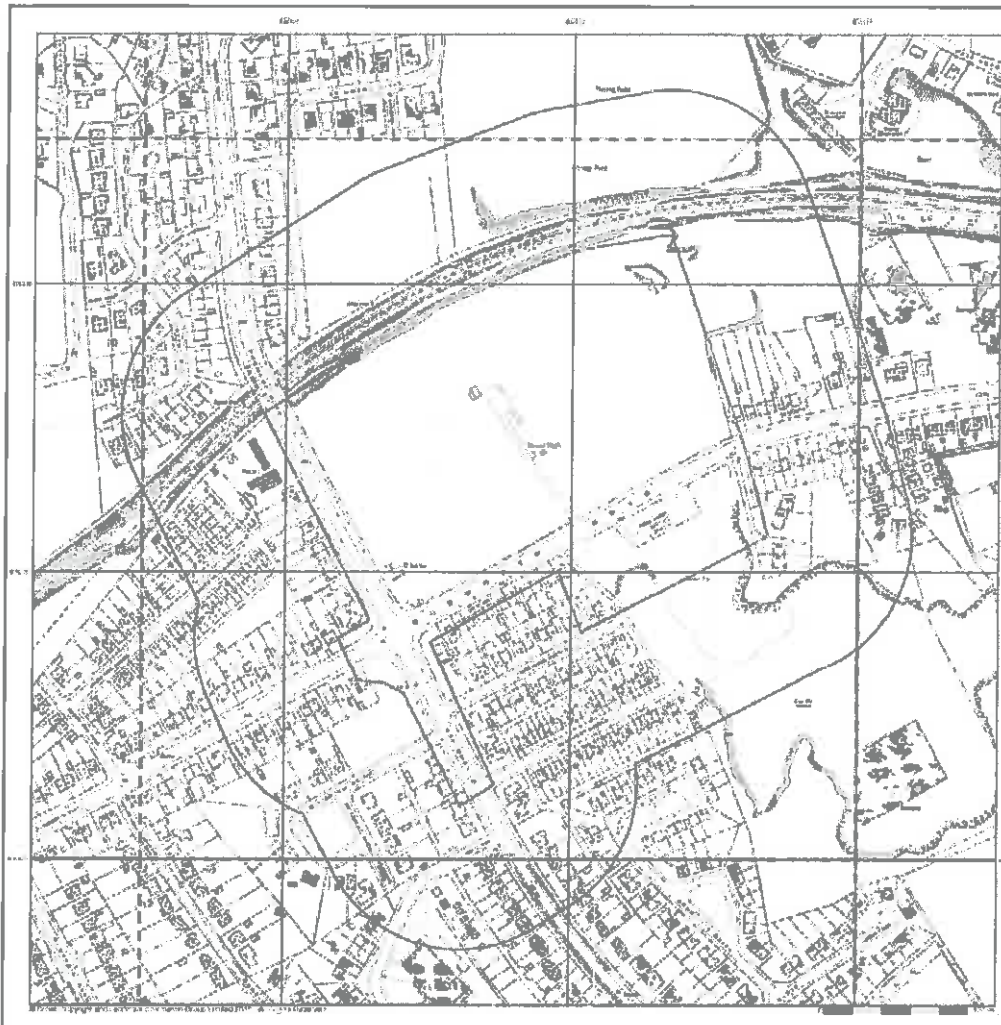
### Site Details

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 Fax: 0344 344 8833  
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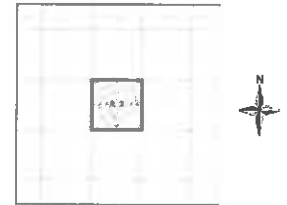
**Ordnance Survey Plan**  
**Published 1969 - 1980**  
**Source map scale - 1:1,250**

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Scotland in the 1940's. In 1954 the 1:2,500 scale was adopted for mapping urban areas and by 1955 it covered the whole of what were considered to be the civilized parts of Great Britain. The published data given below is often some years later than the surveyed data. Before 1931, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas.

### Map Name(s) and Date(s)

Sheet	Scale	Date
1:250	1:250	1977
1:250	1:250	1979
1:250	1:250	1980
1:250	1:250	1981
1:250	1:250	1982
1:250	1:250	1983
1:250	1:250	1984
1:250	1:250	1985
1:250	1:250	1986
1:250	1:250	1987
1:250	1:250	1988
1:250	1:250	1989
1:250	1:250	1990
1:250	1:250	1991
1:250	1:250	1992
1:250	1:250	1993
1:250	1:250	1994
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1:250	1:250	1997
1:250	1:250	1998
1:250	1:250	1999
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1:250	1:250	2001
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1:250	1:250	2005
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1:250	1:250	2011
1:250	1:250	2012
1:250	1:250	2013
1:250	1:250	2014
1:250	1:250	2015
1:250	1:250	2016
1:250	1:250	2017
1:250	1:250	2018
1:250	1:250	2019
1:250	1:250	2020
1:250	1:250	2021
1:250	1:250	2022

### Historical Map - Segment A13



### Order Details

Order Number: 140225549\_1\_1  
 Customer Ref: 151069-3155  
 National Grid Reference: 432760, 406250  
 Slice: A  
 Site Area (Ha): 0.98  
 Search Buffer (m): 100

### Site Details

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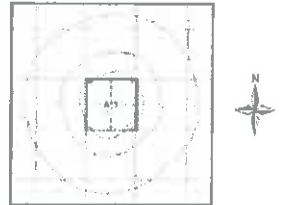
Ordnance Survey Plan  
**Published 1973 - 1978**  
 Source map scale - 1:10,000

The historical maps shown were reproduced from maps predominantly held at the scale adopted for England, Wales and Scotland in the 1840's. In 1854 the 1:2,890 scale was adopted for mapping urban areas; these maps were used to update the 1:10,000 maps. The published data given therefore is often some years later than the surveyed data. Before 1900, all OS maps were based on the Cassini Projection, with independent surveys of a single county or group of counties, giving rise to significant inaccuracies in outlying areas. In the late 1940's, a Provisional Edition was produced, which updated the 1:10,000 mapping from a number of sources. The maps appear unaltered - with all military camps and other strategic sites removed. These maps were initially overlaid with the National Grid. In 1970, the first 1:10,000 maps were produced using the Transverse Mercator Projection. The revision process continued until recently, with new editions appearing every 10 years or so for urban areas.

### Map Name(s) and Date(s)

- OS 1:10,000  
1973
- OS 1:10,000  
1978

### Historical Map - Slice A



### Order Details

Order Number: 140225549\_1\_1  
 Customer Ref: 161089-3168  
 National Grid Reference: 432780, 406250  
 Slice: A  
 Site Area (Ha): 8.98  
 Search Buffer (m): 1000

### Site Details

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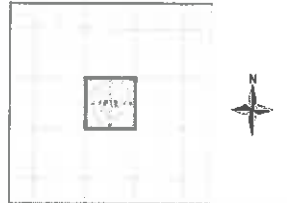
**Additional SIMs**  
**Published 1983 - 1991**  
**Source map scale - 1:1,250**

The SIM cards (Ordnance Survey's 'Survey of Information on Monuments') are further, minor editions of mapping which were produced and published in between the main editions as an area was updated. They date from 1947 to 1994, and contain detailed information on buildings, roads and land-uses. These maps were produced at both 1:2,500 and 1:1,250 scales.

### Map Name(s) and Date(s)

1:2500	1983
1:1250	1991

### Historical Map - Segment A13



### Order Details

Order Number: 14022549\_1\_1  
 Customer Ref: 151069-3159  
 National Grid Reference: 432760, 406250  
 Slice: A  
 Site Area (Ha): 6.98  
 Search Buffer (m): 100

### Site Details

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**10k Raster Mapping**

**Published 2000**

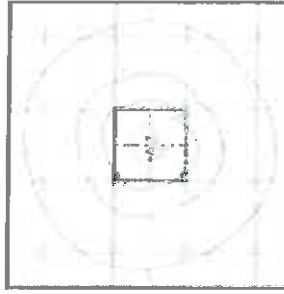
**Source map scale - 1:10,000**

The historical maps shown were produced from the Ordnance Survey's 1:10,000 colour raster mapping. These maps are derived from Landrapien which is highly detailed at a 1:10,000 scale and includes details such as all roads, tracks and paths. Road names and road numbers as well as all relevant road number and classification. Boundary information includes the relevant road number and classification. Boundary information includes county, unitary authority, district, civil parish and constituency.

**Map Name(s) and Date(s)**

SECTORS	1
DATE	2000
SCALE	1:10,000
PROJECTION	OSGB36
UNIT	M
COORDINATE	OSGB36
UNIT	M

**Historical Map - Slice A**



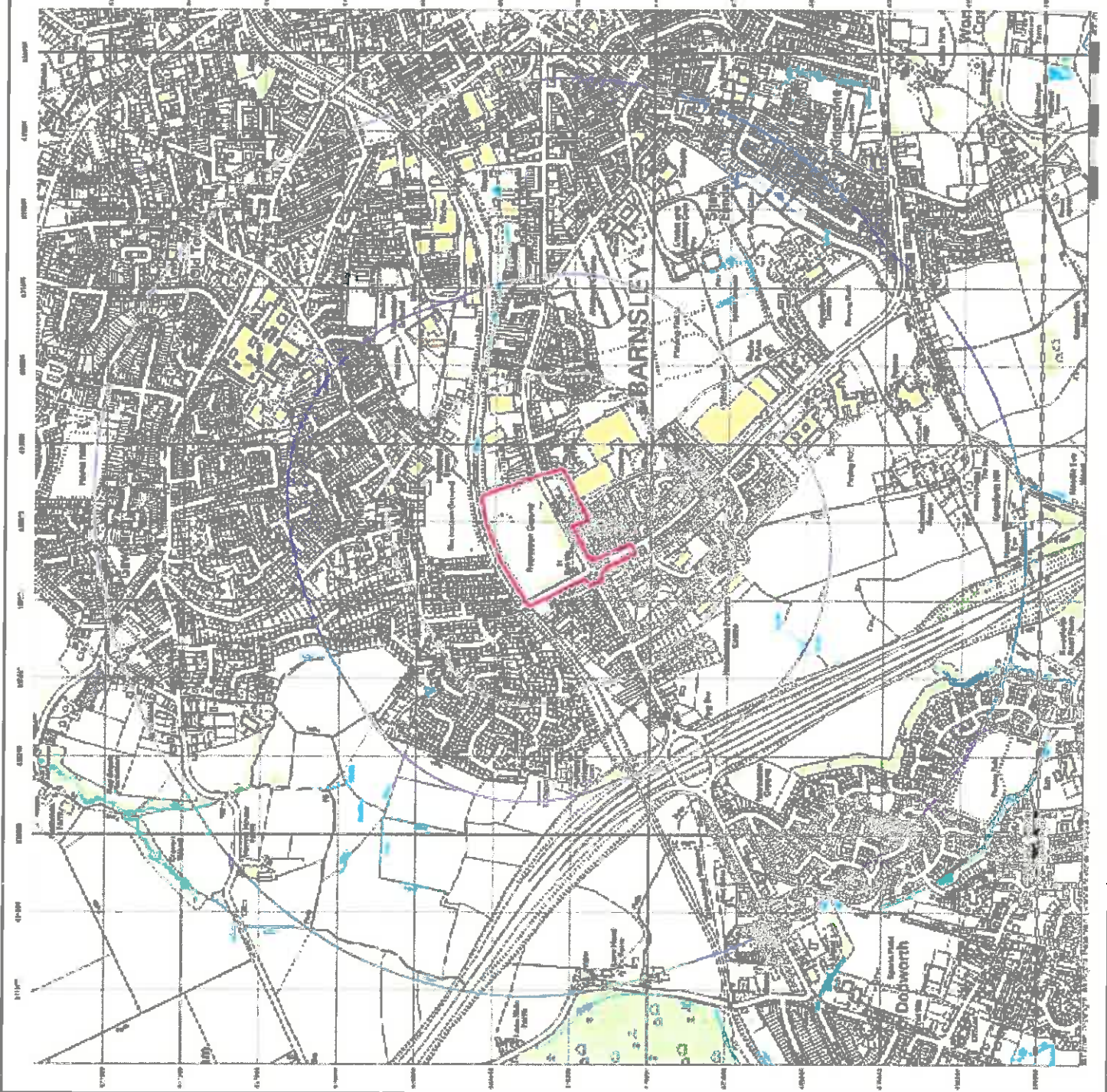
**Order Details**

Order Number: 140225549\_1\_1  
 Customer Ref: 151069-3168

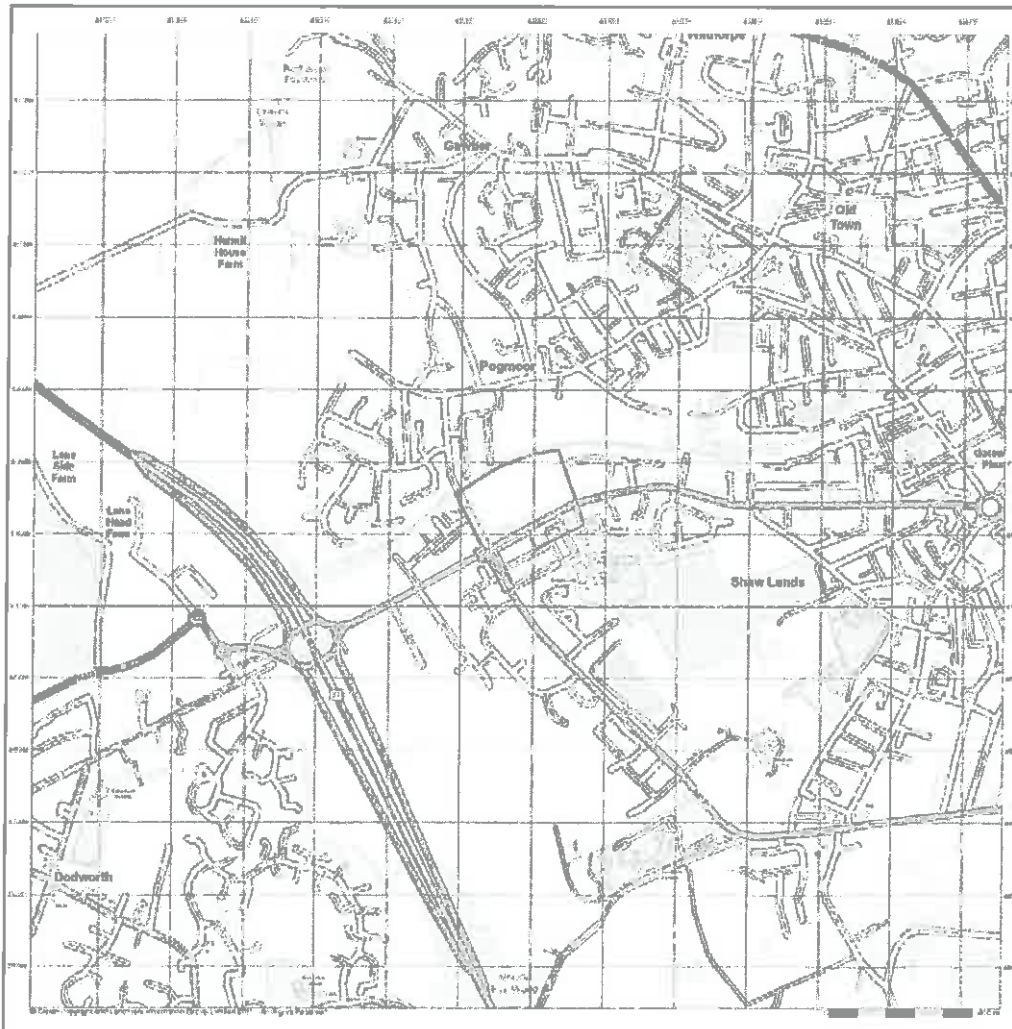
National Grid Reference: 432760, 408250  
 Slice: A  
 Site Area (Ha): 6.88  
 Search Buffer (m): 1000

**Site Details**

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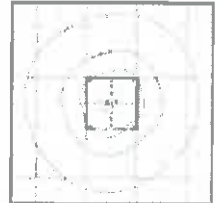
**Street View**  
**Published 2017**  
**Source map scale - 1:10,000**

Street View is a street-level map for the whole of Great Britain produced by the Ordnance Survey. These maps are provided at a nominal scale of 1:10,000.

Map Name(s) and Date(s)



Street View Map - Slice A



**Order Details**  
 Order Number: 140225549\_1\_1  
 Customer Ref: 181068-3188  
 National Grid Reference: 432780, 408250  
 Slice: A  
 Site Area (Ha): 6.98  
 Search Buffer (m): 1000

**Site Details**  
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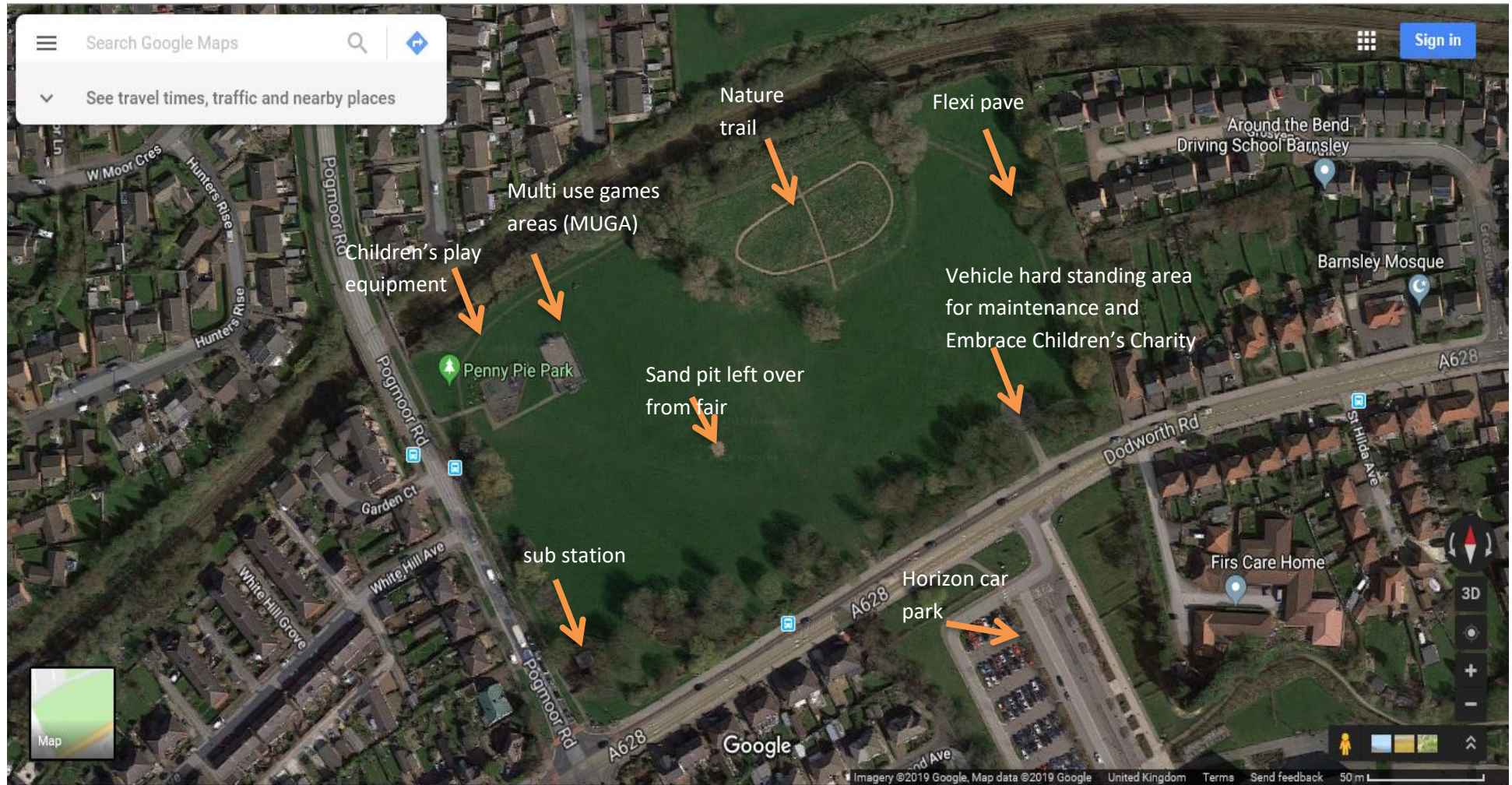
**Landmark**  
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## Appendix 6

Plan showing current features in Penny Pie Park obtained from Imagery©2019 Google Map data © Google United Kingdom



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**PLAY AREA**



**VEGETATION**

- existing mature tree
- existing shrubs or scrub
- existing tree planted by Friends of Penny Pie Park
- tree to be removed - see below\*
- additional orchard tree to be planted
- avenue or feature tree to be planted
- proposed shrubs
- proposed woodland buffer planting
- proposed wildflower meadow
- existing crocus bulbs
- proposed daffodil planting
- Low mound up to 1m high

**BARRIERS**

- metal railings, 1.5m high, black, with concrete block/slab mowing margin
- metal arch for pedestrian entrance to park
- maintenance access point
- Acoustic fence, timber, 3m high
- Acoustic wall, gabions, either 1m high or 1.5m high

**PATHS AND PAVING**

- 3.0m wide Flexistone path with low key lighting
- 1.8m wide Flexistone path
- 1.2m wide Flexistone path
- route for fairground vehicles with reinforced cross over path
- central seating area with space for outdoor cinema and other gatherings
- paved area with raised dais

**FURNITURE AND EQUIPMENT**

- welcome board
- picnic bench, Lightmain flat bar, green, with access for wheelchair or pushchair
- seat, Lightmain round bar, green
- bin for litter and dog waste, Wybone MLB/160R
- story trail feature to remain in current location
- story trail feature to be relocated as shown, with name
- Friends of Penny Pie Park container cafe

Bird and bat boxes to be installed with assistance of Friends of Penny Pie Park



500m

\* Tree Survey and Arboricultural Assessment' updated 28 June 2018 by Wainwright Landscape Architecture.

Rev 4: 10 June 2019. Addition of trees to be removed.  
Rev 3: 7 June 2019. Small amendments and minor additions.

BARNSELY MBC	
PENNY PIE PARK	
SKETCH PROPOSALS	
1:1000 @ A3	April 2019
1:500 @ A1	KE
PPP/557/01	rev 4

**BOUNDARY RAILINGS AND ARCHES**



**MULTI USE GAMES AREA**



HORIZON COLLEGE CAR PARK

GARDEN COURT

WHITE HILL AVENUE

POGMOOR ROAD

DODWORTH ROAD

BARNSELY TO HUDDERSFIELD RAILWAY

GROSVENOR WALK

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Appendix 8

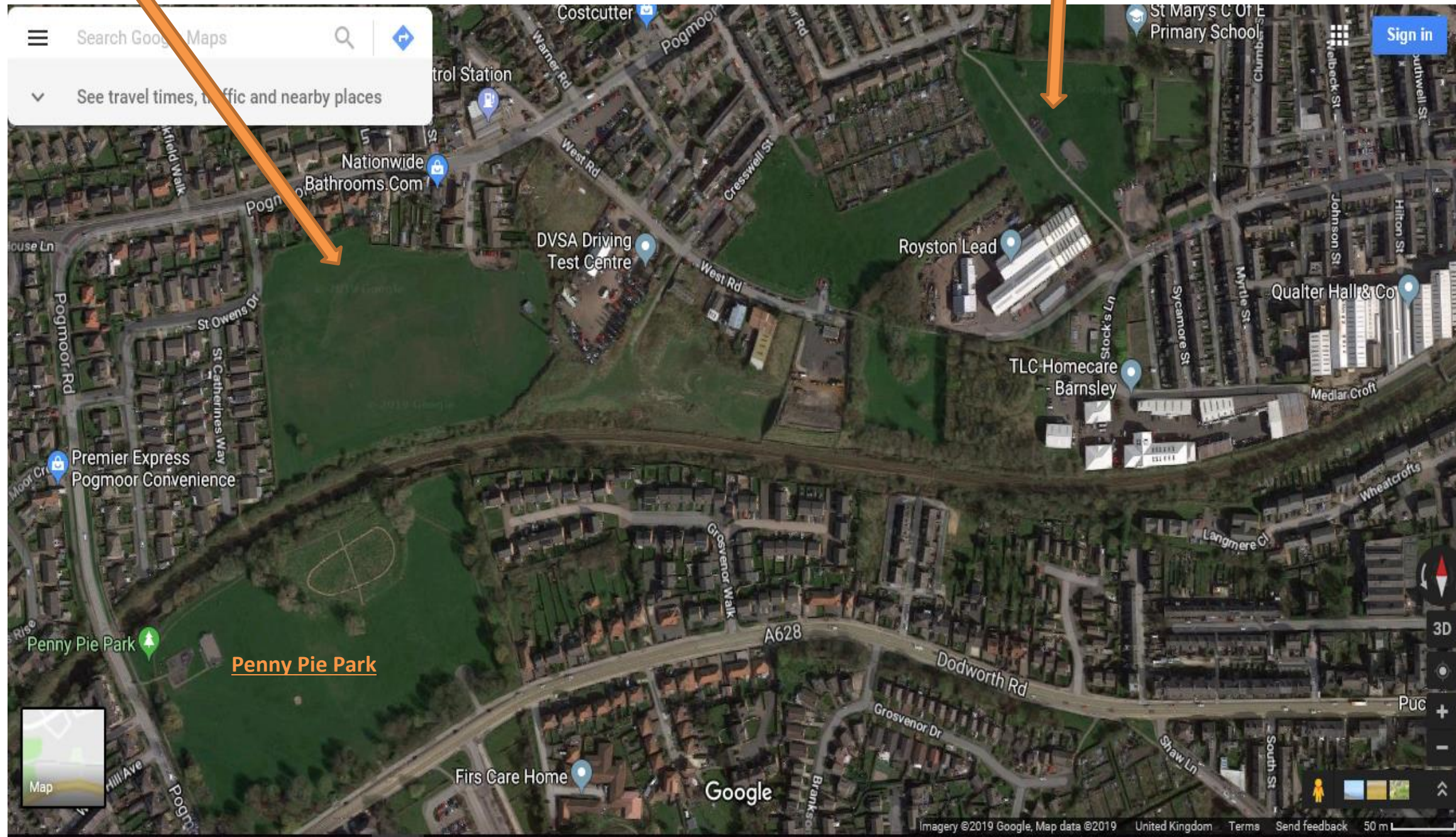
Plan showing location of Pogmoor Recreation Ground and Sugden's (Stocks Lane) Recreation Ground that will also benefit from improvements as part of the mitigations. Plan obtained from Imagery©2019 Google Map data © Google United Kingdom

**Pogmoor Recreation Ground -**

Football Pitch retained with improved pedestrian access with provision of footpath, benches and dog fouling bins.

**Sugden's Recreation Ground -**

Neighbourhood Equipped Play Area (NEAP). 8 pieces of play equipment. Mini orchard and seating.



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