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**2020/1221**

**Applicant:** Mr Will Newett

**Description:** Residential development of 28 no dwellings and associated works

**Site Address:** Land south of New Smithy Avenue, Thurlstone, S36 9QZ

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### **Background / Site History**

An outline application under application reference 2017/0088 for a residential development of 21 properties was refused in 2017 but was later allowed at appeal in August 2018, reference APP/R4408/W/17/3188501. A condition of the outline approval allowed a maximum of 21 properties.

Following this, the applicant submitted two applications on the site, a reserved matters application for 21 dwellings, pursuant to outline planning permission ref 2017/0088 appearance, layout, scale and landscaping (2019/0690) but only utilising part of the site, and a full application for the erection of 9 dwellings and associated access, landscaping and infrastructure (2019/0689). These were refused by PRB in May 2020. Subsequent appeals (ref: APP/R4408/W/20/3263535 and APP/R4408/W/20/3263538) were dismissed 17<sup>th</sup> November 2021.

In addition to this application, a reserved matters application for 21 dwellings has been submitted under reference 2021/0939 which is also on this Planning Board agenda

This application is a full application, therefore, not bound by the conditions applied to the outline approval albeit they remain a material consideration.

### **Site Description**

The application site comprises a rectangular shaped 0.9ha area of land set to the immediate south of New Smithy Avenue and to the north of High Bank / Manchester Road within the village of Thurlstone. The Thurlstone Conservation area runs along the southern boundary of the site and extend up Towngate to the east. The site previously formed part of a larger agricultural land holding, known as White House Farm.

The site has a gated access directly off New Smithy Avenue and access is provided via a pedestrian gate located in the south-east corner, which serves the adjoining White House Farm. The site is surrounded by residential properties on three sides to the north, east and south and to the west is further agricultural land separated by an existing Public Right of Way which runs between High Bank and Westfield Avenue/Westfield Lane. The site rises from the south-east to the north west.

### **Proposed Development**

The scheme presented to Members has been amended during the application process with the number of units proposed reduced from 36 to 28, amendments to the layout including increased greenspace and landscaping and alterations to the house designs.

The development proposes access from New Smithy Avenue and curves into the site, progressing westwards with the proposed houses laid out along this road. Potential future access to the adjacent safeguarded land is secured and a turning head is provided within the site. At the entrance to the site there are 5 parking spaces, 4 for visitors and 1 allocated to plot 28. Within the site, there is an area of green space which is located centrally and provides a buffer to existing houses on High Bank which back onto the site. Opposite this space some trees are proposed within the highway verge.

The 28 houses are split into:

- 8 x 3 bed properties
- 12 x 4 bed properties; and
- 8 affordable houses of which 4 are 3 beds and 4 are 2 beds.

The 2 bed affordable units have open plan living space to the ground floor with a porch and two bedrooms and bathroom at first floor. The three bed units have a lounge and separate kitchen diner with 3 bedrooms and bathroom at first floor. All the affordable units are semi-detached.

The design of the market houses varies with plots 2-7 located in the south east of the site being split level, appearing as 1.5 storeys to the front and falling with the land to appear as 2.5 storey at the rear. They are all detached with integral garages and a room in the roof space. The remaining market houses are all two storey, detached houses with separate garages. The designs vary across the site with a total of 9 different house types with different roof styles, window and door detailing and some double fronted properties at corners.

All the houses are proposed to be built from a coursed artificial stone with grey slate used on the roof.

The landscaping plan shows a native mix hedgerow along the southern boundary, with Highgate Lane as well as along the northern boundary and sections to the east and western boundaries. Native scrub is also proposed as well as a number trees across the site.

## **Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making.

## **Local Plan**

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The new Local Plan was adopted at the full Council meeting held 3rd January 2019. In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies and are a material consideration in the decision making process.

The site is allocated as Safeguarded Land SL23 within the Local Plan and is set adjacent to the Thurlstone Conservation Area.

The following policies are therefore of relevance:-

SD1 'Presumption in Favour of Sustainable Development'  
GD1 'General Development'  
LG2 'Location of Growth'  
H1 'The number of New Homes to be Built'  
H2 'Distribution of New Homes'  
H6 'Housing Mix and Efficient Use of Land'  
H7 'Affordable Housing'  
T1 'Accessibility Priorities'  
T3 'New Development and Sustainable Travel'  
T4 'New Development and Transport Safety'  
D1 'High Quality Design and Place Making'  
LC1 'Landscape Character'  
HE1 'The Historic Environment'  
HE2 'Heritage Statements and General Application Procedures'  
HE3 'Developments Affecting Historic Buildings'  
HE6 'Archaeology'  
GI1 'Green Infrastructure'  
GS2 'Green Ways and Public Rights of Way'  
GB6 'Safeguarded Land'  
BIO 'Biodiversity and Geodiversity'  
CC1 'Climate Change'  
CC2 'Sustainable Design and Construction'  
CC3 'Flood Risk'  
CC4 'Sustainable Drainage Systems (SuDs)'  
RE1 'Low Carbon and Renewable Energy'  
CL1 'Contaminated and Unstable Land'  
Poll1 'Pollution Control and Protection'  
I1 'Infrastructure and Planning Obligations'

#### SPD's

- Design of Housing Development
- Open Space Provision on New Housing Developments
- Planning obligations
- Affordable Housing
- Trees and Hedgerows
- Financial contributions to Schools
- Parking
- Sustainable Travel

#### Penistone Neighbourhood Plan

Penistone Neighbourhood Plan August 2019 – The plan sets out the vision and objectives for the future of Penistone and development proposed in it. A key component of the vision is to *'offer a range of housing that provides for all sectors of the community, as well as attracting new residents to the area's unique blend of town and country.'* In addition, the 10 objectives support development whilst protecting the town's rural and historic character.

The following policies of the Neighbourhood plan are of relevance:-

BE1: Design of the built environment

All new housing proposals should adhere to the following principles, where it is appropriate:

a) Where new housing developments are proposed, homes should be reflective of local architecture and in keeping with the surrounding area. In particular, the following design principles should be adhered to:

- To have no houses above two storeys on the perimeter of built up areas where it adjoins open countryside, where they have a greater impact upon the surrounding area in order to preserve and enhance the character of the area, in particular allocation sites HS70, HS71, HS74, HS75 as shown in Barnsley Local Plan.
- New developments should use external building materials that reflect the characteristic of development in the locality.

b) All residential developments will be expected to be designed so as to be sensitive to any existing wildlife habitat and corridor and should be appropriately landscaped and in particular development on the edge of the existing settlements shall incorporate tree planting so as to soften the built-up edge of the settlement as viewed from the countryside. Any residential development of 20 or more units will be expected to make provision for the appropriate amount of open space, in accordance with Barnsley MBC standards.

c) Development proposals should respect and maintain key views as identified on maps 2 and 3, in order to maintain the character and appearance of the town and villages.

#### BE2: Protection and enhancement of local heritage assets

New developments must respect the rural setting of the community by protecting valuable conservation and heritage sites. The parish is notable as having significant heritage assets, partly protected by Conservation Areas, although these currently have no formal management plans. It is a key concern that protection of the built environment has been neglected and consequently character of the towns and villages has been eroded.

#### H1: Appropriate housing development

Proposals for new housing development of 10 or more units should:

a) Include an appropriate mix of bungalows, starter homes and smaller homes (one and two bedroom) as determined by the most contemporary housing needs and market assessments available.

b) Ensure that affordable housing provided in accordance with the requirements of Policy H7 of the adopted Barnsley Local Plan is 'pepper-potted' through the development site to ensure full integration of communities.

#### NPPE

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise. Sections and paragraphs of relevance would be:

Section 5 – Delivering a sufficient supply of homes, at the current time the Council has a 5 year housing supply.

Section 8 – Promoting healthy and safe communities

Section 9 – Promoting Sustainable transport

Paragraph 110 - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 111 - Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Section 11 – Making effective use of land

Section 12 – Achieving well-design places

Paragraph 131 - Trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

Paragraph 134 - Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design<sup>52</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Section 16 – Conserving and enhancing the historic environment

Paragraph 199 - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

## **Consultations**

Affordable Housing – Housing developments of 15 or more dwellings will be expected to provide 30% affordable housing in Penistone and Dodworth and Rural West. The site layout shows 8 units as affordable which is in line with this policy. The units are all located together adjacent the site entrance, to the north of the new estate road. This is contrary to the SPD which seeks to spread affordable housing across developments, however, it is accepted that this is a linear site with limited opportunities for disbursement.

Air quality – No objection, subject to a condition securing electric vehicle charging points.

Biodiversity Officer – The applicant has provided a Preliminary Ecological Assessment with accompanying BNG assessment and Metric Spreadsheet alongside a detailed landscape plan. The baseline findings of this are accepted, however, it is not acceptable to swap an increase in hedgerows length for loss of non-linear (grassland) habitats. On this basis further information is required regarding a suitable replacement habitat offer. More detail is contained within the report below.

Contaminated Land – No comments received, however, previously it was confirmed that the site investigation report has shown there are no elevated levels of contamination on the site. Therefore, no further information or conditions regarding contamination issues will be required.

Conservation Officer – The Conservation Officer has focused on the units on the southern edge of the site, and the boundary treatments and landscaping that attended these. Previous concerns over the overbearing number of southern units and the impact the boundary treatments (the fence) would have on the conservation area setting to the south have been addressed with amended plans. In addition, concerns were raised about the pinch point in the centre of this row of the southern units located closest to the existing dwellings on High Bank and how the development could be visually overbearing.

The Conservation Officer has therefore comment that the most recent submitted plans do open up the centre of this row by setting units back towards the north. Revision M indicates that in the centre of the southern part of the site there is some greenspace / shared public open space adjacent to units 9 and 10. This is useful in protecting the amenity of existing houses on High Bank and will improve and reduce the impact on the conservation area to the south. The set-back and public open space remove the requirement for a 1800 fence at the closest point of the site to the south where it would be most visible from the conservation area. There remains some prospect of intrusion at the eastern end of the development (specifically 2-8) due to the gradient here. These are now 1.5 storey at street level to the north but 2.5 when viewed from the south due to the fall of the slope. This will be an area of the development that is visible from the eastern end of High Bank and will clearly be seen from quite close proximity within the conservation area. However, on balance this is not enough for a strong objection to the scheme and there are genuine net gains in this layout. However, given the possible

visual intrusion that still occurs from units 2-8 the materials need to be genuinely sympathetic to the conservation area. In that regard stone (reconstituted will suffice) and a slate to the roof that is not a standard chunky concrete interlocking tile is requested. Ideally a decent riven artificial would be good like a Rivendale or a genuinely slim and less riven alternative such as a Birkdale or the equivalent would work. In addition rooflights should be conservation style on these south facing roof slopes to project the setting of the conservation area. Subject to these matters being agreed or secured through a condition, no objections.

Drainage – No objections or conditions.

Education – There is no requirement for primary school places following updated projection data but there remains a requirement to fund secondary school places. With the number of units reduced to 28, contributions will be required for 4 secondary places at £16,000 each totalling £64,000.

Highways – Objection due to the increase in numbers over the 21 which was approved for the outline application. More detail on this issue is in the report below.

Penistone Town Council – Penistone Town Council objects to this application as an overdevelopment of the site. No green space or play area is provided. Also New Smithy Avenue has a great deal of on street parking and is unsuitable as an entrance to the proposed development.

There is a wider access issue. Thurlstone is a village with just one road access from Manchester Road into Towngate. This is a very substandard and potentially dangerous access. It is our strong view that no significant further housing development should take place in Thurlstone unless and until an improved and safe road access to the village is provided.

We also have concerns about the drainage issues from this site

Public Rights of Way – No objections subject to the PROW adjacent the site not being affected during construction and any fence along its boundary being the landowners responsibility. Additional comments in the report below.

Regulatory Services – No objection subject to conditions relating to construction management good practice.

South Yorkshire Passenger Transport Executive – No comments received.

South Yorkshire Archaeology – No objections subject to conditions to secure archaeological assessment prior to commencing the development.

South Yorkshire Police – Various detailed design recommendations, passed to the applicant.

Tree Officer – No comments received, but previously not objected subject to conditions which can be applied to this scheme.

Urban Design Officer – This layout has undergone considerable negotiation with the Council, resulting in drawing revision 'M' for the layout. It is a considerable improvement on previous revisions of this layout plan. I note that following our on-site meeting with the applicants and their design team on 24th August 2021 they have

taken on board the design concerns raised about their previous revisions of this layout.

Yorkshire Water – No objections subject to conditions

Ward Councillors – Councillor Kitching has issued an objection which is summarised as follows:

- I am writing, in my capacity as elected member for Penistone West, and also as a resident of Towngate, Thurlstone, to submit my representations on and objections to application 2020/1221, for 36 houses on the land off New Smithy Avenue.
- The outline permission was granted in part due to the borough not yet meeting its 5-year housing supply. As the Local Plan has now been adopted this supply has now been both met and exceeded. Therefore no reason to build any additional dwellings on this site.
- The site is too over crowded, due to the 71% increase in dwellings (an additional 15) from the outline permission.
- Insufficient car parking. There is limited off-street car parking in this area
- Three storey properties inappropriate in this area and against Penistone Neighbourhood Plan
- Materials need to be in character with Conservation Area
- Hedgerows and trees should be retained
- Concerns that drainage would not be adequate
- Concerns on proposed pedestrian access
- No open space on site. If this is the case than any S106 monies should be ringfenced for Thurlstone play park
- Need education contribution
- Scheme doesn't meet mix of house types required by PNP
- Main objection is highways access and impact on highway network. Transport statement is misleading with regards to junction of Towngate and Manchester Road and availability of footways. Towngate is heavily congested at times especially during school pick up and drop off.
- Proposal will overcrowd this ate and make highways access through village unbearable

## **Representations**

The proposed development has been consulted on twice. Initially in December 2020 a press notice, site notices and neighbour letters was issued with the re-consultation on amended plans in April 2021 sent to all neighbours and anyone who had expressed an interest. A further set of amended plans were then submitted in October 2021, these show a reduction in the number of units and overall impact. It should also be noted that whilst the application has been live, there has been a consultation process on the appeal process and the reserved matters application, this has potentially resulted in a degree of frustration and confusion for residents.

In total 59 comments have been received objecting to this application. The following concerns have been raised:-

- Concerns about destabilising the retaining wall, should be independently assessed
- Fence on the retaining wall will block light and safe exit for adjacent property

- Not all the adjacent properties have eaves below/level with the retaining wall, some have them above with windows overlooking the land
- Traffic impact, Towngate and New Smithy can't take more traffic
- Pavements are not wide enough so increased traffic will increase risk to pedestrians
- Corner from Manchester Road to Towngate is already dangerous
- New Smithy Avenue is usually parked up so only allows single lane traffic
- Towngate gets blocked everyday during the school rush hour.
- How will emergency services get through?
- Too many properties for the site
- Doesn't conform to the Neighbourhood Plan with no single storey accommodation
- Impact on wildlife, greenfield site
- Previous application for fewer houses was refused, this one should be too
- Insufficient infrastructure in the village, drainage wont cope, water pressure is already bad and gas pipes already need replacing
- The site slopes to High Bank so development will cause flooding
- Access to the school is difficult already with lots of parked cars and pavements too narrow for prams
- The school is already full
- How will large trucks get to the site?
- 3 storey, split level houses are unsuitable, land isn't as steep as suggested in this location and applicant is actually creating a steeper gradient for these. Sections should be provided along with floor and roof heights so impact can be assessed.
- Loss of privacy, made worse by change in levels
- The plans don't show extensions on existing properties so the distances are incorrect.
- Red brick and grey concrete tiles is inappropriate materials

The amended plans address a number of the issues raised by Councillor Kitching and residents, including an overall reduction in numbers, increased greenspace and landscaping (including trees and hedgerows), a hedgerow along the boundaries and particularly to the south, no access to Towngate and improved standoff distances along the southern boundary. More details are in the assessment section below.

## **Assessment**

### Principle of development

The site is designated within the Local Plan as Safeguarded Land. In 2017 an outline application reference 2017/0088 was submitted for a residential development of the site for 21 dwellings. The application was refused and the decision was later subject to an appeal hearing. On the 13<sup>th</sup> June 2018 the appeal was allowed. At the time, the Council could not demonstrate a 5 year housing land supply, therefore the principle of the development was considered to be acceptable by the Planning Inspector.

Despite the sites Local Plan allocation as Safeguarded Land, the principle of a residential development of the site was established by the appeal decision. The application and decision remain extant and therefore provides a fallback position.

Several conditions were attached to that permission which are not carried over to this new application as it is not directly connected to the outline permission but they remain a material consideration. In particular, the appeal limited the number of units on site to

21 in the interests of highway safety. This condition and limitation on the number of dwellings is also referred to in the latest appeal decisions (ref: APP/R4408/W/20/3263535 and APP/R4408/W/20/3263538) whereby the Inspector states that they are not aware of any application being made to vary or remove the condition on numbers. As stated, because this is a new full planning application, the applicant does not have to adhere to that condition. However, it is a material consideration and is therefore dealt with in the highways section of the report.

### Design, Layout and Visual Amenity

The design and layout of this application has been amended in consultation with the Urban Design Officer and Conservation and Design Officer. Amendments that have been made and are summarised in the Design and Access Statement as follows:

- An overall reduction of units to 28.
- Plot 1 orientated to frame the view down the road from a west to east direction
- A 'kink' in the road is proposed, in keeping with the key design principle of the masterplan submitted for the approved outline permission
- The kink in the road has allowed for the provision of feature street trees and hedgerows to break up areas of hardstanding and reduce the appearance of front parking
- New house types are proposed at plots 2-7 which are 3 bedroom split level house type (type N307), which are 1.5 storey at street and 2.5 storey from the rear, owing to site levels.
- Layout has been revised to ensure residential amenity of the existing properties along the southern boundary/High Bank. The area around plots 9-10 (formerly plots 20-23) have been re-designed to reduce the distance between the proposed dwellings and the adjacent properties on High Bank through the removal of 2 dwellings and the provision of public open space ("POS"). This acts as a buffer between the proposed development and properties on High Bank and will be accessible to all residents (existing and future). The POS will be naturally overlooked by the plots 9-10 which are dual fronted and by the existing properties on High Bank
- Garages for plots 9-10 moved further north away from existing properties on High Bank to protect their residential amenity.
- A 1500mm high hit and miss fence with a 300mm trellis on top is proposed around plots 9-10 to help delineate public and private space and to help maintain the privacy for those particular plots.
- Hedge planting along the southern boundary has been offset by 2m from the edge of the boundary to ensure it does not create a loss of light for properties on High Bank. Hedgerow added along the eastern boundary to help improve the end of vista view as you look down the street from a west to east direction

The resultant design is a considerable improvement in design terms and has been supported by the Conservation and Urban Design Officer.

The site is in an elevated position with a high retaining wall along its southern boundary and some older stone properties backing onto this wall. In addition, the site slopes and the levels provided with the application confirm that there will be new retaining structures to the rear of houses backing on to High Bank. These vary in height but will be largely between 1 – 2m with a section to the rear of plot 8 being up to 3m. The reduction in the number of units along this edge of the site, the step in from the boundary, proposed native hedgerow and area of open space will soften and break up the appearance of the development when viewed from the Conservation Area.

This mitigates the impact on the Conservation Area to the south and the wider visual impact of the development when viewed from High Bank.

The increased landscaping and inclusion of tree planting on the site, with some street trees is also welcomed and directly addresses concerns raised in the most recent appeal decisions. In addition, there is clear and consistent front boundary treatment with hedges located at the front of plots, defining public and private spaces and helping to soften the visual impact of parking

The curved treatment of the central road helps break up the view down the road, creates variety in dwelling set-back distances from the road, creates variety in the orientation of the dwellings and allows a flexibility of layout to enable a sensitivity in the distance from existing, neighbouring dwellings. So, despite this being a long cul-de-sac of predominantly detached dwellings, there is some character and distinctiveness in the development.

A boundary treatment plan has been provided but confirmation is required on the type of boundary treatment, particularly hedging and how this can be adequately maintained. Amended details can however be secured by condition. Similarly, the applicant has agreed to a condition requiring further detail in relation to materials. This is to address concerns the Conservation Officer has regarding the proposed roof tiles.

Amendments to the parking on site, to address highways concerns have led to a reduction in landscaping to the front, however, the Design Officer and Conservation and Design Officer have both confirmed that sufficient landscaping remains.

Taking account of the above, the proposed is accepted to be a considerable improvement on the scheme originally submitted. Further, the Urban Design Officer and Conservation Officers have welcomed and supported these improvements as being in compliance with Local Plan Policies D1 and HE3 and Neighbourhood Plan Policies BE1 and BE2.

### Residential Amenity

There are a residential properties backing on to the site from 3 sides, off Towngate, New Smithy Avenue and High Bank.

Where the proposed new houses are orientated directly back to back with existing houses on new Smithy Avenue, there is circa 26m when measured elevation to elevation, this is well in excess of the 21m required by policy. There is a closer relationship adjacent plots 16 and 18. These proposed houses are set side on with no habitable room windows in the side elevation and achieve the minimum 12m distance. Residents have raised concerns with overlooking and overshadowing issues here. There is no issue with overlooking as the new properties are side on, but both plots had garages to the side which were close to boundary with the existing houses and had a relatively high roofline. These created a potential overbearing / overshadowing impact and as such the applicant has removed these. The relationship here now meets the minimum standards required, but it is noted that it is worse than that proposed in the reserved matters scheme.

No.17 New Smithy Avenue has a conservatory which is not shown on the OS but will be overlooked by plot 20. This can be mitigated through an appropriate boundary treatment here however and the rear garden on plot 20 does meet standards.

Properties along High Bank to the south are set at a lower level with a high retaining wall directly behind them. The site sits above this wall with new houses orientated back to back with the existing houses. The issues along here are associated more with overshadowing than overlooking, with the impact coming from the houses, retaining structures in the rear gardens and the boundary treatment along here. The majority of houses on High Bank are two storey with just the roof line extending above the existing boundary wall, albeit there are some houses which extend up to 3 storeys, above the wall line. In both cases, there are some windows in the rear elevations and therefore a potential to create an overshadowing impact. This has been addressed by the amended layout through stepping in the boundary and proposed hedgerow which offers some privacy whilst reducing the overbearing impact. In addition, the greenspace to the rear of plots 9 and 10 increases the space available to the rear of properties here where the potential impact is greatest.

To the east of the site, properties off Towngate back onto the development, however, the separation distances here are exceeded with no habitable room windows in the rear of plot 1 or side of plot 2. As such the impact is acceptable.

In terms of any impact during construction, due to the site being surrounded by existing residential developments, conditions would be required to ensure the residents are not adversely affected by noise and dust issues during the development works in accordance with Policy Poll1 Pollution Control and Protection.

Overall, the proposed design and layout as amended has an acceptable impact on residential amenity and is in accordance with Local Plan Policy D1 and the accompanying guidance the Design of Housing SPD.

Concerns have been raised by residents of High Bank regarding the future maintenance of their property in view of its position adjoining the appeal site and concerns have also been raised with regard to the ownership of a boundary wall. Unfortunately, these are private legal interests which are not material considerations as noted by the Planning Inspector's appeal decision.

### Density and Mix of Housing

Policy H6 of the Local Plan, Housing Mix and Efficient Use of Land states that a density of 30 dwellings per hectare would be expected within the villages. The proposed would result in 28 dwellings being delivered on an area of approximately 0.99ha, which is just below 30 dwellings per hectare.

In terms of housing mix, Policy H6 in the Local Plan required a broad mix of house size, type and tenure, whilst H1 of the Penistone Neighbourhood Plan similarly seeks an appropriate mix of bungalows, starter homes and smaller homes (one and two bedroom) as determined by the most contemporary housing needs and market assessments available, on housing sites of more than 10 units.

The site has a mix of 9 different house types, ranging from 2 to 4-bedroom dwellings, detached and semi-detached of 2 storeys with some split level 1.5/2.5 storey dwellings. However, no bungalows or level access dwellings are proposed.

Both Policy H1 of the NP and H7 of the Local Plan (and the accompanying SPD) require affordable housing to be pepper potted or spread across the site rather than located in one area. On the proposed, the units are grouped in a row, however this is a relatively small scheme with limited options for disbursement. Both the 2 and 3 bed houses exceed the South Yorkshire Residential Design Guide standards.

Overall, it is accepted that although not fully in accordance with all the requirements the proposed is broadly in compliance with Policies H6 and H7 of the Local Plan as well as Policy H1 of the NP.

#### Impact on future development of Safeguarded Land

The site layout shows the proposed new estate road having the ability to be extended to the western boundary. This would allow a potential future access through to the remaining safeguarded land. This is consistent with the original appeal decision in 2017 which included a condition requiring the submission of a layout that would secure access to the safeguarded land and ensure that its future development was not prejudiced. The proposed is therefore in compliance with Local Plan Policy GB6.

#### Highway Safety

The Council's Highways Section have objected to this application. This is based around support for, and lack of new evidence to counter, the inspectors decisions dated 17 November 2021, ref: APP/R4408/W/20/3263535 & APP/R4408/W/20/3263538. Whilst the inspector considers both appeals in isolation, he also considers the cumulative impact totalling 21+9 residential dwellings. Highway Development Control recognise that the current application is for 28 units, however the inspectors decision recognises the previous 2019 upheld appeal (APP/R4408/W/17/3188501) of the 2017 outline application and condition 12 of that decision where "The site shall be developed for a maximum of 21 dwellings". In the 2019 appeal decision the previous inspector states "A condition requiring the provision of a parking layby on New Smithy Avenue and conditions to specify the number of dwellings, provide on-site parking, manoeuvring and visibility spays are required in the interests of highway safety".

Whilst the inspector recognises in the 2019 decision that appropriate mitigation in the form of a layby to New Smithy Avenue was satisfactory to address highway safety concerns for the provision of 21 dwellings, the inspector also saw fit to impose a condition to limit the number of dwellings on the site to 21 (Condition 12 of the 2019 PINS report). In the later appeal(s) for 30 units in total, the inspector upholds this position.

The fact that both appeal decisions have imposed/reiterated the 21 limit is a material consideration and there is nothing in the application or amended documentation to justify the increase to 28 and the impact this would have on highway safety given the constraints of the local road network and on-street parking.

It is noted that as part of this application submission the applicant has provided a plan for a parking layby on New Smithy Avenue in accordance with the approved outline. However, this was considered when the limit to 21 was set. There is no additional provision provided in relation to the increase in numbers to 28.

Therefore, the proposed does not comply with Local Plan Policy T4 and should be refused on highway safety grounds.

#### Public Rights of Way

There is a public footpath running along the western boundary of the site, separated by an existing hedgerow. Safe public access along this route should be retained

throughout the development with appropriate fencing in place at all times to protect pedestrians.

The estate road is shown to extend to the boundary with the public footpath and a link to the PROW is proposed. Any new pedestrian link should abut the existing footpath, be built to adoptable standard and be included in the Highways adoption agreement. Any gap in the fencing should be 2m wide to match the footway.

Boundary fencing alongside the footpath should be no higher than 1.8m, as shown in the plans. Ideally the fencing would be reduced in height where it runs parallel to the end of the estate road to improve visibility, the plans don't show any boundary treatment here so this will need to be conditioned.

Appropriate conditions and informatives will be added to the decision to secure the above. As such Local Plan Policy GS2.

### Drainage/Flood Risk

Yorkshire Water and the Council's Drainage Officer have not raised any concerns at this stage subject to the imposition of conditions. The proposal to discharge foul water into the sewer network and surface water via Soakaways is considered as being acceptable with regards to flood risk and drainage impacts.

### Biodiversity/Trees

The application is supported by a Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment, conforming to the Defra Metric. This has been assessed by the Biodiversity Officer and the findings accepted.

The existing site is largely neutral grassland with some mixed scrub and trees around the edges and a section of native hedgerow. The proposed development includes an area of mixed scrub in the greenspace as well as new native hedgerows around the site edges and a number of trees in the street or greenspace. In addition, the metric now allows for residential gardens providing some habitat benefit.

The assessment identifies the development, allowing for mitigation, will lead to an overall Net Loss of 1.97 habitat units. There will be a net gain of 1.36 Hedgerow Units which is a benefit, however, the units lost are largely grassland and the metric does not allow for a different type of habitat to be used as mitigation. Therefore, there is a deficit of 1.97 units which the application has not been able to resolve on site.

The Biodiversity Officer has reiterated concerns that detailed mitigation should be secured and agreed before an application is decided. However, whilst this is best practice, it is possible to secure these details post permission through a S106 agreement which would require the applicant to seek to secure off site mitigation in the area before development commences. This can also include a fall-back position whereby if the applicant is not able to secure off site mitigation, they can look to pay a contribution to the council.

Notwithstanding concerns about the off site mitigation the biodiversity officer has requested an Ecological Management Plan for the post-construction habitats, both on-site and off-site to cover 30 years. This can be secured through condition and the S106 agreement.

Therefore, the proposed complies with Local Plan Policy BIO1 and the accompanying Biodiversity and Geodiversity SPD.

### Archaeology

The Archaeology Assessment states that there is low potential for evidence from the Prehistoric, Romano-British and post medieval periods, however confirmed a moderate potential for archaeological evidence from medieval periods. An archaeology condition will be required in accordance with policy HE6 of the Local Plan.

### S106 – Affordable housing, public open space, education, sustainable travel

Based on the current layout and mix of dwellings, assessed against the formulae in the published SPD's the following contributions would be required: -

Affordable Housing – 30% is being delivered which equates to 8 units. These will split 60% affordable rent and 40% shared ownership.

The mix of dwellings is:

- 4 x 2 beds
- 4 x 3 beds

Education – There is an identified shortfall in secondary school places within the area and as such a contribution is required to address this. The development will generate 4 Secondary school places with a total contribution of £64,000

Sustainable Travel – Local Plan Policy T3 requires financial contributions towards improvements to sustainable travel, where levels of accessibility through public transport, cycling and walking are unacceptable. Using the formulae in Appendix C of the SPD the figure required is £28,000.

In addition, EV charging points would need to be conditioned for each dwelling, as would cycle storage for houses without a garage.

Greenspace – the site layout as proposed now includes some greenspace which is located centrally. Over and above this a contribution is required toward off site greenspace. The full contribution for informal, formal and playspace totals £53,669.60

Finally, the S106 will need to include details as to how the off-site biodiversity mitigation can be secured.

### Conclusion

The proposed development is for 28 new houses on a site which has been judged to be sustainable through a previous appeal process. The extant outline permission provides a fallback position in this regard and sets the precedent that the proposed development is acceptable in principle.

It is noted that although the layout as amended is an improvement in design terms, the impact on residential amenity for properties on New Smithy Avenue (in the north west corner) is greater in this scheme when compared to the reserved matters scheme. Whilst minimum standoff distances are achieved, this supports that the reduction in units to 21 delivers a better scheme.

The limit of the number of units on the site to 21 applied to the original outline scheme, is a material consideration and was set in the interests of highway safety. The applicant has provided a technical note, seeking to address this issue. However, Highway Officers have retained their objection and confirmed that none of the justification provided with this application has addressed the specific issues raised in the appeal regarding the impact of additional traffic on New Smithy Avenue.

Therefore, refusal is recommended.

### **Recommendation**

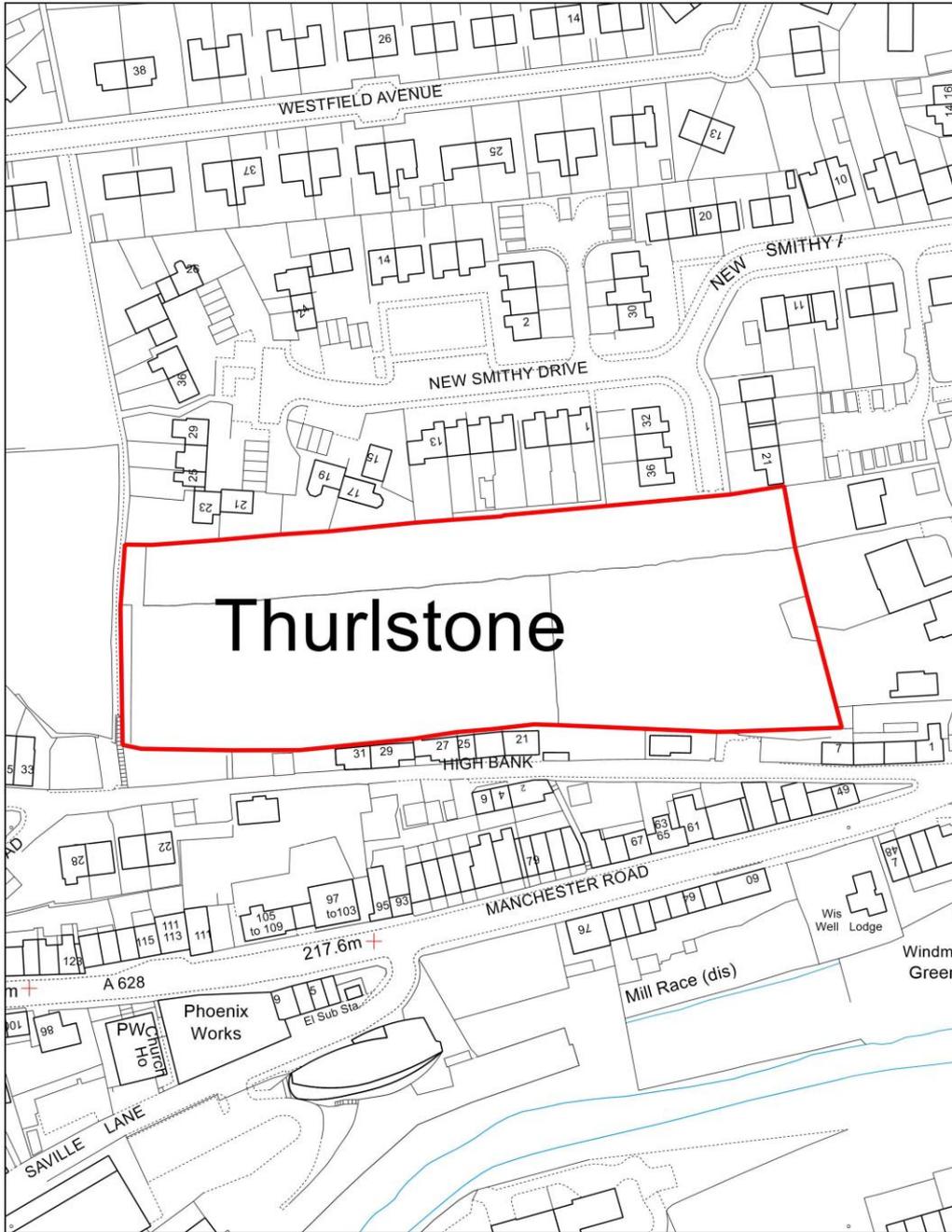
Refuse for the following reason:

The proposed development utilises an access route whereby there are known physical constraints which result in difficulties in vehicle manoeuvring and high levels of on street parking. Previous planning permissions granted on the site have sought to limit the impact through restricting the number of dwellings and no additional or new information has been provided with this scheme to justify any deviation from this limit. Therefore, the proposed is considered to be contrary to Local Plan Policy T4 and the requirement to achieve safe, secure and convenient access and movement.

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PA Reference:-

2020/1221



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