

Case Number	19/01832/FUL (Formerly PP-07866120)
Application Type	Full Planning Application
Proposal	Application to allow alterations to conditions relating to surface water, foul waste, landscaping, green roof and owl/bat boxes (Application under Section 73 to vary/remove Condition no(s) 15. (Landscape Scheme), 25. (Surface water drainage), 26. (Soakaways and foul drainage), 27. (Green Roof), 28. (Owl and bat boxes) relating to application no.14/02812/FUL (Application under Section 73 to vary condition 2 (drawings) imposed by Planning permission 12/00585/FUL to included provision of 11 allotments and alterations to roofs, reduction in height of garden wall and rebuilding brick gable wall)
Location	Loxley Works Low Matlock Lane Sheffield S6 6RP
Date Received	21.05.2019
Team	North and West
Applicant/Agent	Mr Gary Campbell – Campbell Homes Limited
Recommendation	Grant Conditionally
Decision Issued	19.02.2020

## UPDATE NOTE

The purpose of this report is to update Committee Members on the recent S73 planning approval at Loxley Works. The application (Ref: 19/01832/FUL) was approved at the Planning and Highways Committee held on 18 February 2020. Minutes of the committee meeting at Section 6d.5 (3) state that ‘a report be submitted to the Planning and Highways Committee in six months time to ensure that the work had been carried out to the satisfaction of the Council.’

The application related to the removal/variation of a number of conditions attached to the original permission on the site (Ref: 12/00585/FUL), which approved consent for the erection of 11 dwellinghouses. The application was submitted in order to regularise unauthorised works carried out and to address surface and foul drainage issues.

Condition No. 25 of the 2020 permission stated that the proposed surface water drainage design shall be submitted for approval within 8 weeks of the date of the decision, and the works shall be carried out no later than 6 months from the date of the

decision. In respect of this condition no details have been submitted by the developer as required by condition.

Condition No. 26 of the 2020 permission stated that the approved foul drainage system shall be installed no later than 6 months from the date of this decision, prior to which arrangements to secure connection to the public sewer along Loxley Road shall be entered into with YW. The conditions goes on to say that the LPA shall be notified in writing of the installation date a minimum of 14 days before the approved foul drainage system being installed.

The completion date for when both these drainage systems should be installed is 18 August 2020.

The developer has confirmed that this date will not be met. The developer has advised officers that this delay relates largely to implications with respect to the Covid-19 pandemic. Matters relating to an ongoing legal process have also been raised but this is not a planning consideration.

With comments in relation to Covid-19 noted, this is a long running issue that needs to progress to a conclusion and, subject to agreement from Members, officers are intending to begin enforcement action against any breach of planning should the previously agreed six month timeframe not be met. The alternative would be to use discretionary powers in relation to enforcement action to offer a further extended period for the developer to comply with the noted conditions.

**Place Directorate  
City Growth Department**

Planning Services  
Howden House 1 Union Street Sheffield S1 2SH



Officer: Marcus Young  
Ref: 19/01832/FUL (Formerly PP-  
07866120)

Tel: (0114) 20 37860  
19 February 2020

Collinshallgreen  
Mr Simon Collins  
Courtwood House  
Silver Street Head  
Sheffield  
S1 2DD

**TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING PERMISSION**

**Proposal:** Application to allow alterations to conditions relating to surface water, foul waste, landscaping, green roof and owl/bat boxes (Application under Section 73 to vary/remove Condition no(s) 15. (Landscape Scheme), 25. (Surface water drainage), 26. (Soakaways and foul drainage), 27. (Green Roof), 28. (Owl and bat boxes) relating to application no.14/02812/FUL (Application under Section 73 to vary condition 2 (drawings) imposed by Planning permission 12/00585/FUL to included provision of 11 allotments and alterations to roofs, reduction in height of garden wall and rebuilding brick gable wall)

**Location:** Loxley Works, Low Matlock Lane, Sheffield, S6 6RP,

**Applicant:** Mr Gary Campbell - Campbell Homes Limited

Planning permission is hereby **GRANTED** for the above-mentioned development in accordance with the application deposited with the Council on 21 May 2019 together with the relevant plans, including any amendments now agreed, subject to the following condition(s), in each case followed by the relevant reason:-

**Time limit for Commencement of Development**

1. The development must be begun not later than the expiration of three years from the date of planning approval No. 14/02812/FUL.

Reason: In order to comply with the requirements of the Town and Country Planning Act.

**Approved Plan(s)**

2. The development must be carried out in complete accordance with the following approved documents:

#### CODA DRAWINGS

Drawing No. 001 Revision P04 (Ground Floor Layout); Drawing No. 002 Revision P05 (Ground Floor Layout);

Drawing No. 003 Revision P03 (Roof Plan); Drawing No. 004 Revision P02 (Roof Plan);

Drawing No. 005 Revision P02 (First Floor Plan); Drawing No. 006 Revision P02 (First Floor Plan);

#### COLLINS HALL GREEN DRAWINGS

Drawing No. 120 Revision P03 (External Works Drainage Remediation Plan);  
Drawing No. 121 Revision P02 (External Works - Drainage Remediation S106  
Details, Manhole Schedule and Long Sections)

Drawing No. 130 Revision P01 (SW Drainage Catchment Areas);

Drawing No. 501 Revision P1 (Landscaping Plan)

published on the 21 May 2019 and 12 July 2019

Reason: In order to define the permission

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

25. Full details of the proposed surface water drainage design, including calculations and appropriate model results shall be submitted to and approved by the Local Planning Authority. This shall include the arrangements and details for surface water infrastructure management for the life time of the development. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. The surface water drainage scheme and its management shall be implemented in accordance with the approved details.

Details of the works shall be submitted to and approved in writing within 8 weeks of the date of the decision, and unless first agreed in writing by the Local Planning Authority, the works shall be carried out no later than 6 months from the date of this decision.

Reason: In the interests of sustainable development and reduce the risk of flooding.

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

26. The foul drainage system shall be installed in accordance with the details shown on Drawing Nos. C470 120 P03 (External Works Drainage Remediation Plan), C470 121 P02 (External Works Drainage Remediation Plan) and C470 130 Revision P01 (SW Drainage Catchment Areas) no later than 6 months from the date of this decision, prior to which arrangements to secure connection to the public sewer along Loxley Road shall be entered into with Yorkshire Water.

The Local Planning Authority shall be notified in writing of the installation date a minimum of 14 days before the approved foul drainage system is installed and shall be given the opportunity to witness its installation. Thereafter, the approved foul pumping station and drainage apparatus shall at all times be serviced and maintained in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to it being brought into use.

Reason: To ensure satisfactory disposal of foul drainage and waste.

### **Other Compliance Conditions**

3. The car parking accommodation provided in accordance with the approved plans shall be retained for the sole purpose intended.

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

9. The turning space for vehicles provided in accordance with the approved plans shall be retained for the sole purpose intended.

Reason: In the interests of traffic safety and the amenities of the locality.

12. Surface water and foul drainage shall drain to separate systems.

Reason: To ensure satisfactory drainage arrangements.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, Part 1 (Classes A to H inclusive), Part 2 (Class A), or any Order revoking or re-enacting that Order, no extensions, porches, garages, ancillary curtilage buildings, swimming pools, enclosures, fences, walls or alterations to include satellite dishes and external lighting such as floodlights which materially affect the external appearance of the dwellinghouse shall be constructed without prior planning permission being obtained from the Local Planning Authority.

Reason: In the interests of protecting open character of the Green Belt.

23. The measures that have been incorporated into the development to reduce emissions of greenhouse gases as approved under Condition Application No. 14/02812/COND1 shall be retained and maintained for the lifetime of the development.

Reason: In the interests of mitigating the effects of climate change, in accordance with Sheffield Development Framework Core Strategy Policy CS64.

24. The measures that have been incorporated into the development to secure a minimum of 10% of the predicted energy needs of the completed development from renewable or low carbon energy as approved under Condition Application No. 14/02812/COND1 shall be retained and maintained for the lifetime of the development.

Reason: In the interests of mitigating the effects of climate change, in accordance with Sheffield Development Framework Core Strategy Policy CS64.

27. Within the first planting season after the date of this decision, any plant failures within the installed green roof (vegetated roof system) shall be replaced with the same or similar herbaceous type plants.

Reason: In the interests of biodiversity.

28. The owl and bat boxes as shown on Drawing No. C470 500 Revision P1 (Bat and Owl Box Locations) shall be retained and, in the event that any of the boxes are damaged, they shall be replaced with a suitable alternative.

Reason: In order to improve biodiversity within the site.

Please Note: There may not be conditions under each heading.

### **Date of Decision made by the Council's Planning & Highways Committee**

19 February 2020

Planning Service Sheffield City Council

### **Attention is drawn to the following directive(s):**

1. Where conditions require details to be submitted, an Application for Approval of Details Reserved by Condition is required (unless the condition gives the option of implementing the details already submitted). The Local Planning Authority is expected to determine these applications within 8 weeks of being validated, so it is essential to include all the information required. Apply online at [www.planningportal.gov.uk](http://www.planningportal.gov.uk). There are fees, which are also set by the Government.
2. The applicant is advised of the following:
  - Repeat conditions are listed with the same numbering as those listed on Decision Notice to 14/02812/FUL;
  - Conditions 2, 3, 9, 23, 24, 25, 26, 27 and 28 have been varied in accordance with the details submitted and approved with this application:

- Conditions 4, 5, 6, 7, 8, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22 and 29 have been removed from this notice as they have been complied with following the approval of details under applications 14/02812/COND1 and 14/02812/COND2; and
- Conditions 12 and 16 remain unchanged from those listed on Decision Notice to 14/02812/FUL and remain in force.

**Attention is drawn to the following informative :**

Sheffield City Council is a Community Infrastructure Levy (CIL) Charging Authority. Therefore, your development may be CIL liable if it falls within the categories on our CIL Charging Schedule which can be found at <http://www.sheffield.gov.uk/cil>. (Householder extensions under 100 square metres are not CIL liable). If your development is CIL liable a liability notice will be sent to you shortly informing you of the CIL charge payable and the next steps in the process.

Please note: You must not start work until you have submitted and had acknowledged a CIL Form 6: Commencement Notice. Failure to do this will result in surcharges and penalties.

## NOTES

The term 'true conditions precedent' is used to mean a condition that expressly requires that development shall not commence until the condition has been complied with, and is central to the consent. Development commencing without complying with these conditions would be unlawful.

### Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act, 1990.

Enforcement - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice. If you want to appeal against your Local Planning Authority's decision on our application, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

Householder - If this is a decision to refuse planning permission for a householder application, if you want to appeal against your Local Planning Authority's decision then you must do so within 12 weeks of the date of this notice.

Minor Commercial - If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your Local Planning Authority's decision then you must do so within 12 weeks of the date of this notice.

All Other Applications - If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under a development order.

### Purchase Notices



If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town and Country Planning Act 1990.

#### Notes Regarding Access for Fire Service

Notwithstanding this planning permission, attention is drawn to Section 55 of the South Yorkshire act 1980 which requires that any application made under the Building Regulations shall be rejected unless, after consultation with the Fire Authority, they are satisfied that the plans show:-

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

Any queries in this respect should be directed to:-

South Yorkshire Fire and Rescue, 197 Eyre Street, Sheffield, S1 3FG. Telephone: 0114 2727202

#### Demolition

Section 80 (2) of the Building Act 1984 requires that any person carrying out demolition work shall notify the local authority of their intention to do so. This applies if any building or structure is to be demolished in part or whole. (There are some exceptions to this including an internal part of an occupied building, a building with a cubic content of not more than 1750 cubic feet or where a greenhouse, conservatory, shed or pre-fabricated garage forms part of a larger building). Where demolition is proposed in City Centre and /or sensitive areas close to busy pedestrian routes, particular attention is drawn to the need to consult with Environmental Protection Services to agree suitable noise (including appropriate working hours) and dust suppression measures.

Form Dem 1 (Notice of Intention to Demolish) is available from Building Standards, Howden House, 1 Union Street, Sheffield, S1 2SH. Tel (0114) 273 4170 email [buildingcontrol@sheffield.gov.uk](mailto:buildingcontrol@sheffield.gov.uk)

Environmental Protection Services can be contacted at DEL, Howden House, 1 Union Street, Sheffield, S1 2SH. Tel (0114) 2734651

## Officer Report

### BACKGROUND

The application relates to the site of Loxley Works, a former industrial site that is situated along the southern side of Loxley Road. The site is now in residential use following the grant of full planning permission to change the use of the site's former industrial workshop into 11 dwellinghouses. This was granted in August 2012, under planning reference No. 12/00585/FUL.

Following the initial grant of planning permission, the applicant submitted a Section 73 application to vary Condition No. 2 (Schedule of drawings), which was approved in January 2015, under planning reference No. 14/02812/FUL allowing amendments to the earlier approved scheme. The development has been built broadly in accordance with the 2015 approval.

### LOCATION AND PROPOSAL

Loxley Works is a residential development that is made up of 11 dwellinghouses and a garage block (2-22 Low Matlock Lane). The site is a former industrial site that is situated off Loxley Road. The site covers approximately 1 hectare, and is made up of a row of terrace houses, converted from an early 20<sup>th</sup> Century industrial brick workshop, a garage block, central access road, large lawned areas and allotment gardens.

The site is set significantly lower than Loxley Road, and is effectively hidden from the road. The site is situated approximately 100m to the north of the River Loxley and lies within Flood Zone 1.

The nearest residential properties to the site are located along Loxley Road to the north and north-west (434 - 456 Loxley Road) and also along Low Matlock Lane to the west (Green Wheel House and Green Wheel Barn). A breakers yard is located to the south of the site.

The applicant is again seeking approval under Section 73 of the Planning Act to vary conditions attached to planning approval No. 14/02812/FUL. The application is specific to five conditions, namely No.s 15 (Landscape Scheme), 25 (Surface Water drainage), 26 (Soakaways and foul drainage), 27 (Green roof), and 28 (Owl and Bat boxes).

### RELEVANT PLANNING HISTORY

The site of Loxley Works has a complex planning history. The most relevant applications are set out below.

12/00585/FUL - Partial demolition and refurbishment of industrial unit to form 11 cottages, erection of garage block and provision of associated landscaping and parking accommodation (as per amended drawings received 8 June 2012) – Approved 01/08/2012

14/02812/FUL - Application under Section 73 to vary condition 2 (drawings) imposed by planning permission 12/00585/FUL to include the provision of 11 allotments and, alterations to roofs, reduction in height of garden wall and rebuilding brick gable wall – Approved 13/01/15

12/00585/COND1 - Application to approve details in relation to condition numbers 4. highways improvements; 5. details of highways improvements; 6. access for construction

vehicles; 7. wheel cleaning; 11. details of materials; 13. foul and surface water drainage; 17. land contamination investigation; 22. mobility housing; 23. greenhouse gas reduction; 25. surface water discharge reduction; 26. soakaway and septic tank and 27. green roofs relating to planning permission 12/00585/FUL – Withdrawn 18/09/2015

12/00585/COND2 - Application to approve details in relation to condition numbers 9. Vehicle turning space, 10. Surfacing and drainage, 11. External materials, 18. Phase I preliminary risk assessment report, 19. Phase II intrusive site investigation report of planning permission 12/00585/FUL – Withdrawn – 18/09/2015

12/00585/COND3 - Application to approve details in relation to condition numbers 24. Energy needs; 26. Soakaway and septic tank; 27. Green roofs of planning permission 12/00585/FUL – Decided 17/06/2015

14/02812/COND1 - Application to approve details in relation to condition numbers 4. Highway improvements, 5. Details of highway improvements, 6. Access for construction vehicles, 7. Wheel cleaning, 10. Surfacing and drainage, 11. Details of materials, 13. Foul and surface water drainage, 15. Landscape scheme, 22. Mobility housing, 23. Greenhouse gas reduction, 24. 10% of predicted energy use be from renewable or low carbon energy, 25. Surface water discharge reduction, 26. Soakaway and septic tank and 27. Green roof relating to planning permission 14/02812/FUL – Decided 15/10/2015

14/02812/COND2 - Application to approve details in relation to condition numbers 17. Phase I Preliminary Risk Assessment, 18. Site Investigation Report and 19 & 21. Remediation strategy of planning permission 14/02812/FUL – Decided 07/02/2017

APP/EPR/545 - Appeal against a refusal of an application for an Environmental Permit – Dismissed 8/02/2019

## SUMMARY OF REPRESENTATIONS

Representations have been received from the residents of 10 properties. All but one of these representations have been received from the residents living at Loxley Works. There have been two rounds of consultation following the receipt of additional information/plans. Most of the residents have commented twice, the second comments reiterating their initial concerns.

These are summarised below:

- The developer has not carried out any of the work promised in the planning application.
- The developer installed an illegal system for dealing with sewage. The treatment plant was not approved by the Environment Agency. The system, which was installed in 2016 was inadequate to deal with sewage generated at this site. The system has broken down on several occasions leading to bad smells around the site.
- The replacement pumping station and apparatus should be adopted by Yorkshire Water and not the developer as the management have proven themselves to be incapable of managing the site.
- Have no confidence that the developer (Campbell Homes) would install and manage the new system efficiently.
- It would be prudent for the LPA to enforce that the conditions of the new pumping station be made under a Section 104 legal agreement with Yorkshire Water as the sewage undertakers. This would give the residents confidence that the people responsible for the upkeep/maintenance of the sewage system are experts in this

field and to prevent any possible further issues with the sewage system impacting upon our home and the surrounding environment.

- The Council was at fault in allowing the treatment plant to be installed.
- The proposed pumping station should be designed so that it is suitable for adoption under S104 of the Water Industry Act in accordance with Sewers for Adoption.
- Without the system being adopted by Yorkshire Water, this again could bring a host of ongoing and future issues around health and safety, maintenance, repairs, management, odour nuisance and environmental issues.
- No objection with the green roof, landscaping, or provision of the bat and owl boxes.
- Lead to believe that the soakaways were in place during construction, but as there have been no problems do not want any disturbance of the allotment gardens.
- Apart from the foul drainage issue, there are no other issues with the other conditions.

Representations have also been received from Loxley Valley Protection Society (LVPS) and Bradfield Parish Council.

Loxley Valley Protection Society (LVPS)

LVPS share the concerns of the residents of Loxley Works in that the completed scheme has not been carried out in accordance with the approved scheme.

Bradfield Parish Council

Bradfield Parish Council has raised concerns with the application and comment that the information provided does not give enough clarity on the changes to the conditions.

## PLANNING ASSESSMENT

The applicant is seeking to amend five conditions that were attached to the grant of planning permission No. 19/01832/FUL. The application has been submitted on the advice of officers following evidence provided by residents of Loxley Works that the development had not been carried out in strict accordance with the 2015 permission and the details approved under the three condition applications. These conditions as stated above relate to landscaping (No. 15), surface water drainage (No. 25), foul waste (No. 26), green roof (No. 27) and Owl and Bat boxes (No.28).

For ease, each of the conditions that the applicant wishes to vary are listed in sequence below:-

Condition No. 15 (Landscape Scheme)

This condition states that a comprehensive and detailed hard and soft landscape scheme for the site, including enclosures, boundary treatment and the repair of the existing boundary wall on the Loxley Road frontage, shall be submitted to and approved in writing by the Local Planning Authority. The condition goes on to say that the soft landscaped areas shall then be managed and maintained for a period of 5 years from the date of implementation and that any plant failures within that period shall be replaced to the satisfaction of the Local Planning Authority.

The landscaping scheme for the site was approved under application 14/02812/COND1. The details of the approved scheme were set out on Drawing No. GLD011 Planning -07 (Landscape Plan). This plan shows grassed lawns to both upper and lower gardens, a wild

flower meadow, allotment gardens, and an area of Indian Flagstone paving. The details were considered to be acceptable as they would provide an attractive hard and soft landscaped setting to the benefit of the approved building.

Inspection of the site shows that the applicant has broadly carried out the landscaping in line with the 2015 landscape plan, with the site's raised upper garden grassed, border planting and the provision of 11 allotment gardens. The landscaping does not however include seating areas as previously prescribed, nor does it include the wildflower meadow in the north-eastern part of the site adjacent to the access road, which has been fenced off and is overgrown with no evidence that this was ever laid out as a wildflower meadow.

Officers acknowledge that the landscaping has not been carried out in full accordance with the 2015 landscape plan. However, it is considered that the extent of landscaping that has been carried out across the whole site, now shown on revised Drawing No. 501 Revision P1 (Collins Hall Green) is extensive and of an acceptable quality that includes a large area of open lawned grassed areas, border planting, stone paving and the provision of allotment gardens. While the failure to provide the approved wildflower meadow is regrettable, this only represents a small part of the overall site (approximately 15%) and its lack of provision is not considered to significantly diminish the overall high quality landscaping scheme of the site.

Recommendation: It is recommended that condition 15 be removed in view of the fact that an extensive and satisfactory landscaping scheme has been implemented and maintained for the standard 5 year period.

#### Condition Nos. 25 (Surface Water Drainage)

This condition states that the surface water discharge from the site be subject to a reduction of at least 30% compared to the existing peak flow. In the event that the existing discharge arrangements are not known, or if the site currently discharges to a different outlet, then a discharge rate of 5 l/s/Ha is required. Details of the surface water disposal, including calculations to demonstrate the reduction, should be submitted for approval.

Details in respect of this condition were approved by the LPA in October 2015, under application 14/02812/COND1. The details submitted in respect of this condition are outlined on Drawing No. 101 P02 (Collins Hall Green) and shows that the 30% reduction in surface water runoff as specified by this condition would be achieved through a buried surface water attenuation storage tank below the hardstanding between the dwellinghouses and the garage block (cellular storage units).

However, during the course of an enforcement enquiry, it was brought to officers' attention that the attenuation tank had not been provided on site, with little or no evidence of other on site drainage infrastructure that would achieve a 30% reduction as per the requirement of the condition.

On account of the above, an alternative means of surface water discharge is now proposed by the applicant's drainage consultants (Collins Hall Green) to utilise an existing surface water drainage ditch that runs along the eastern side of the brick boundary wall to Low Matlock Lane. The intention is that surface water would be drained from the hardstanding on the site, which comprises largely of the tarmac driveway, into the drainage ditch via new sections of concrete channel and pipework.

This approach is broadly supported by the Lead Local Flood Authority (LLFA), who have confirmed that the modifications required in order to facilitate the alternative arrangements

should include works to the inlet area, in order to avoid localised flooding, and to the existing access chamber at the bend upstream of the road crossing.

The detailed design of the alternative arrangements will need to include plans, calculations and modelling data to confirm that the proposed surface water conveyance system beyond the development site will be robust enough to convey the unrestricted flows from the site either into the wooded area opposite the site (to which the ditch currently drains) or to the watercourse.

It is considered that, subject to the implementation of an amended scheme that satisfies the above requirements; adequate measures would be in place to reduce surface water run-off from the site to off-set the lack of the attenuation tank. As the houses have been occupied for over 5 years, it is considered reasonable that these drainage works be carried out within 6 months from the date of the decision.

Recommendation: That condition 25 be reworded to secure the implementation of the proposed alternative means of surface water drainage within 6 months of the date of the decision and in accordance with details to be approved by the local planning authority.

#### Condition No. 26 (Foul waste)

This condition relates to foul waste and states that details of the proposed soakaway and septic tank, including its siting and means of discharge, are to be submitted for approval prior to occupation of the dwellinghouses.

Details in respect of this condition were first approved by the LPA in June 2015, under application 12/00585/COND3, and then again in October 2015, under application 14/02812/COND1. The details approved by the LPA were for the installation of a Package Sewage Treatment Plant (PSTP). As a point of record, the treatment plant installed on site is different to the one approved but is understood to be of a higher specification than the approved system.

In approving the details of the system in 2015, officers accepted the qualified advice of the applicant's approved inspector who confirmed that the proposed foul disposal system complied with the functional requirements of the existing regulatory standards of the Environment Agency (EA) and did not require an Environmental Permit to discharge into the adjacent watercourse (River Loxley).

It came to officers' attention in 2017, following complaints raised in relation to odours allegedly emanating from the PSTP, that the installed system did not meet the binding rules of the EA and that an Environmental Permit would be required. The approved inspector had unfortunately misinterpreted the EA's General Binding Rules and the PSTP failed to meet the criteria, as laid out in the General Binding Rules, on two counts: firstly it exceeded the maximum daily volume allowed (5 cubic metres per day); and secondly, as a result of the proximity of the discharge point for the foul sewer to a designated local wildlife site, in this case being the River Loxley. Under the General Binding Rules, which were introduced in January 2015, there are limits to discharging a maximum of 2,000 litres (2 cubic metres) per day into the ground or 5,000 litres (5 cubic metres) of treated sewage per day into flowing water. The Environment Agency state that discharges above these limits automatically require an Environmental Permit and that in this instance, irrespective of whether the applicant had installed a septic tank, or a sewage treatment plant, an Environmental Permit should have been sought from the EA.

The applicant applied to the EA for an Environmental Permit in order to retain the PSTP. This was refused by the EA on the 18 April 2018, with a subsequent appeal to the Planning Inspectorate being dismissed on the 8 February 2019. In dismissing the appeal, the Inspector was not persuaded that the connection to the public sewer was not reasonably practicable. He did not identify any environmental benefits that would arise from the continued use of the PTSP over a connection to a public sewer, nor did he consider that it would be cost prohibitive for a connection to be made to the public sewer, and cited both the Building Regulations and Planning Practice Guidance (PPG), which advises that connection should be to the public sewer unless such a connection is not reasonably practicable or feasible.

Irrespective of condition 26 having been signed off by the LPA, following the dismissal of the appeal and the failure to secure an Environmental Permit from the Environment Agency, the applicant is now seeking approval to decommission the PTSP and discharge foul waste from the site to the public sewer along Loxley Road. Details of the pumping station and apparatus are set out on Drawing Nos. 120 Rev P03 (External Works Drainage Remediation Plan), 121 Rev P02 (External Works – Drainage Remediation) and 130 Rev P01 (SW Drainage Catchment Areas). These plans show that waste would be drawn up via a Foul Pumping Station (Klargester PU1835TS) with connection to the public sewer via a Rising Main with a pump discharge rate of 4.5 litres per second.

The proposed foul pumping station (FPS) and apparatus to the public sewer would not be adopted by YW, and would remain the responsibility of the applicant or his successors in title. YW's adoption would be at the point of connection to the public sewer. The issue of full adoption has been raised with YW, but officers have been advised that there is no requirement for Yorkshire Water to adopt the whole system. Notwithstanding this, Yorkshire Water did agree to inspect the proposed plans and have stated that while the proposed FPS would not meet adoptable standards, they are satisfied with the proposed flow calculations on the FPS based on the information provided. A letter received from Yorkshire Water states that they have no objection to the variation of this condition in line with the details accompanying the application. The Environment Agency is fully supportive of the proposal to decommission the site's existing PTSP and discharge foul to the public sewer along Loxley Road as proposed.

Recommendation: That condition 26 be reworded to secure the installation of the foul drainage system in accordance with the amended plans (Drawing Nos 120 Rev P03, 121 Rev P02, and 130 Rev P01) within 6 months from the date of the decision. Details for maintaining the apparatus should also be submitted for approval.

#### Condition No. 27 (Green Roof)

This condition states that unless otherwise approved, the green roof shall cover a minimum area of 80% of the roof and shall be provided prior to the use of the building commencing. The condition goes on to say that details of the green roof construction and specification, together with a maintenance schedule, shall be submitted to and approved in writing by the Local Planning Authority and that, unless an alternative specification is approved the green roof shall include a substrate based growing medium with a minimum depth of 80mm and incorporate 15 - 25% compost or other organic material. The herbaceous type plants are expected to be maintained for a period of 5 years from the date of implementation and any failures within that period shall be replaced.

Details in respect of this condition were approved by the LPA in October 2015, under application 14/02812/COND1. The approved details include an herbaceous roof planting

scheme for the approved garage block, which included 35mm profiled foam, 80mm of substrate above the profiled foam and individually planted herbaceous plants.

From officers' site inspection, it would appear that the green roof was carried out in accordance with the approved details, although some of the planting has failed.

The provision of a green roof was not necessary in order to gain planning consent, but it is a positive element of the approved development which contributes to both the visual amenities of the locality and local biodiversity. We are unable to identify when the roof planting failures occurred, but it is considered reasonable to assume that there were some failures within the specified 5 year maintenance period as that time has only recently lapsed. It is therefore considered to be appropriate to expect the failed plants be replaced as per the original requirements of the condition.

Recommendation: It is recommended that condition 27 be reworded to secure the replacement of any failed plants within the first planting season after the date of this decision.

#### Condition No. 28 (Owl and Bat Boxes)

This condition states that details of the number and location of bat and owl boxes to be provided on and around the buildings shall be submitted to the local planning authority for approval. Thereafter it expects the approved boxes to be provided prior to first occupation of any of the dwellings.

No details were submitted for approval in respect of this condition under the conditions applications referred to above. The applicant did however provide both owl and bat boxes at the time of the development being occupied, which are shown on Drawing No. C470 500 Revision P1 (Bat and Owl Box Locations), prepared by Collins Hall Green. Three bat boxes and three owl boxes have been fixed to the trunks of trees within the site, three adjacent to the vehicular driveway and three to the rear of the allotment gardens.

The number and siting of the installed boxes are considered to be acceptable and collectively make a positive contribution to biodiversity in the area in line with Paragraph 175 of the NPPF.

Recommendation: It is recommended that condition 28 be reworded to secure the retention of the installed boxes and replacements in the event that they are damaged.

#### ENFORCEMENT

There is currently a live enforcement case (18/00109/ENBC) regarding this site and the breach of planning conditions. Further enforcement action has been held in abeyance until the outcome of this application.

In the event that the application is refused it is recommended that the Planning Enforcement Team of Development Services be authorised to take any appropriate action including, if necessary, enforcement action and instructing the Director of Legal and Governance to institute legal proceedings to secure the compliance with the planning conditions of planning permission 14/02812/FUL as highlighted within this report.

#### SUMMARY AND RECOMMENDATION



This application relates to the site of Loxley Works. Full planning permission to change the use of the site's former industrial workshop into 11 dwellinghouses was first granted in August 2012, and then again in January 2015. Applications seeking approval of details reserved by conditions in respect of a number of the conditions attached to both approvals have been determined.

Following complaints received from residents of the site in 2017, officers were made aware that the development had not been carried out in strict accordance with the approved plan and that, with regard to Condition No. 26 (foul drainage), the Environment Agency had refused the granting of an Environmental Permit. An appeal to the Planning Inspectorate was subsequently dismissed in February 2019.

To regularise the development, the applicant is seeking approval under Section 73 of the Planning Act to vary five conditions that were attached to the full planning permission. As set out in the report, details submitted in relation to the five conditions are considered to be acceptable and it is recommended that the conditions be varied or removed accordingly.

In addition, a number of other conditions attached to the 2015 planning permission are amended or removed to account for the implementation of details previously approved under applications 14/02812/COND1 and 14/02812/COND2.

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