

<b>Application Reference Number:</b>	2025/0949
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<b>Application Type:</b>	<i>Change of Use.</i>
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<b>Proposal Description:</b>	<i>Change of use of domestic swimming pool for business use for swimming lessons and/or private hire, and erection of boundary fence (Retrospective) (Amended Description).</i>
<b>Location:</b>	<i>Mill House, Redbrook Road, Gawber, Barnsley, S75 2RS.</i>

<b>Applicant:</b>	<i>Mr Mark Bilous.</i>
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<b>Third-party representations:</b>	<i>X1 Comment.</i>	<b>Parish:</b>	
		<b>Ward:</b>	<i>Darton West.</i>

<p><b>Summary:</b></p> <p>This application seeks retrospective planning permission for a change of use of an existing domestic swimming pool to a business use for swimming lessons and/or for private hire, and the retrospective erection of a boundary fence.</p> <p>Having balanced all material planning considerations, whilst some objections have been received in respect of this proposal, it is considered that concerns have been appropriately addressed through the information provided and agreed planning conditions. The proposal is considered acceptable in respect of its potential impact on residential amenity, health and pollution control, visual amenity and highways and public rights of way, flood risk, contaminated and unstable land, and biodiversity and geodiversity.</p> <p>The proposal is therefore considered to be an acceptable and sustainable form of development in accordance with Section 2 of the National Planning Policy Framework (NPPF, 2024).</p> <p>Recommendation: <b>APPROVE subject to conditions.</b></p>
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## Site Description

The application relates to an existing domestic swimming pool in an existing detached dwellinghouse located on the south side of an access road off Redbrook Road to the east. The surrounding area is principally residential. Redbrook Farm is located to the southwest and shares the same access road off Redbrook Road. On-street parking is accommodated for on both sides of the access road which also acts as a public right of way footpath. A timber fence has been erected on the north side of the access road and to the rear of properties on Redbrook Mill Close. There is existing external plant on the ground and attached to the north elevation of the dwellinghouse.



## Planning History

There are several applications associated with the development site. However, the most recent and relevant applications are:

B/79/1766/DT	Erection of dwelling and 3 private garages (Approval of reserved matters).	Approved.
B/79/1813/HN	Erection of porch and extension to private garage.	Historic.

B/87/0393/DT	Erection of private double garage and store.	Approved.
2024/0237	Erection of 2no. single storey extensions to left hand side and rear of dwelling.	Approved.

This application also follows pre-application advice under 2025\ENQ\00571.

### **Proposed Development**

This application seeks retrospective planning permission for a change of use of an existing domestic swimming pool to a business use for swimming lessons and/or for private hire, and the retrospective erection of a boundary fence.

The business use would operate between 09:30am – 19:00pm Monday – Sunday and for no more than 3-hours on any given day and no more than 18-hours in any calendar week. There would be a maximum of 8 clients per session.

The swimming pool would be used for personal use outside of business hours.

### **Relevant Policies**

#### The Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Barnsley consists of the Barnsley Local Plan (adopted January 2019).

The Local Plan review was approved at a full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering on its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review, which is due to take place in 2027, or earlier, if circumstances require it.

The development site is allocated as urban fabric within the adopted Local Plan which has no specific allocation. The following Local Plan policies are relevant in this case:

- *Policy SD1: Presumption in favour of Sustainable Development.*
- *Policy TC1: Town Centres.*
- *Policy TC3: Thresholds for Impact Assessments.*
- *Policy GD1: General Development.*
- *Policy POLL1: Pollution Control and Protection.*
- *Policy T3: New Development and Sustainable Travel.*
- *Policy T4: New Development and Transport Safety.*
- *Policy GS2: Green Ways and Public Rights of Way.*
- *Policy D1: High quality design and place making.*
- *Policy BIO1: Biodiversity and Geodiversity.*
- *Policy CC3: Flood Risk.*
- *Policy CL1: Contaminated and Unstable Land.*

#### National Planning Policy Framework (NPPF) and the National Planning Practice Guidance

In December 2024, the Government published a revised NPPF which is the most recent revision of the original Framework, first published in 2012 and updated several times, providing the overarching planning framework for England. The NPPF sets out the Government's planning policies for England

and how they are expected to be applied. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. The revised document has replaced the earlier planning policy statements, planning policy guidance and various policy letters and circulars, which are now cancelled.

Central to the NPPF is a presumption in favour of sustainable development (paragraph 10) and plans and decisions should apply this presumption in favour of sustainable development (paragraph 11). There are three dimensions to sustainable development: economic, social and environmental; each of these aspects are mutually dependent. The following NPPF sections are relevant in this case:

- *Section 2: Achieving sustainable development.*
- *Section 4: Decision-making.*
- *Section 7: Ensuring the vitality of town centres.*
- *Section 8: Promoting healthy and safe communities.*
- *Section 9: Promoting sustainable travel.*
- *Section 12: Achieving well-designed places.*
- *Section 14: Meeting the challenge of climate change, flooding and coastal change.*
- *Section 15: Conserving and enhancing the natural environment.*

The National Design Guidance (2019) is a material consideration and sets out ten characteristics of well-designed places based on planning policy expectations. A written ministerial statement states that local planning authorities should take this guidance into account when taking decisions.

#### Supplementary Planning Guidance

In line with the Town and Country Planning (Local Planning) (England) Regulations 2012, Barnsley has adopted twenty-eight Supplementary Planning Documents (SPDs) following the adoption of the Local Plan in January 2019. The following SPDs are relevant in this case:

- *Biodiversity and geodiversity (Adopted March 2024).*
- *Residential amenity and the siting of buildings (Adopted May 2019).*
- *Parking (Adopted November 2019).*
- *Walls and fences (Adopted May 2019).*

The adopted SPDs should be treated as material considerations in decision making and are afforded full weight.

#### **Representations**

This planning application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended).

Any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

One representation was received from one address with the concerns raised summarised as follows:

- Session timetable.
- Parking and traffic.
- Noise and disturbance.

#### **Consultations**

Environment Agency	No objection(s) subject to informative(s).
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Highway Drainage	<i>No objection(s).</i>
Highways Development Control	<i>No objection(s) subject to condition(s).</i>
Mining Remediation Authority	<i>No comments received.</i>
Pollution Control	<i>No objection(s) subject to condition(s).</i>
Public Rights of Way	<i>No comments received.</i>
South Yorkshire Mining Advisory Service	<i>No objection(s) subject to informative(s).</i>
Local Ward Councillors	<i>No comments received.</i>

## Planning Assessment

For the purposes of considering the balance in this application, the following planning weight is referred to in this report using the following scale unless the NPPF establishes a specific weight:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little or no

### Principle of Development

The proposal would provide a leisure and sport and recreation use outside of a defined Town, District and Local Centre. Such uses are considered main town centre uses as defined by Annex 2: Glossary in the NPPF.

Paragraph 91 of the NPPF states local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only where suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 92 of the NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Paragraph 94 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the proposed development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Paragraph 95 of the NPPF sets out that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts upon one or more of the considerations in paragraph 94 it should be refused.

Local Plan Policy TC1: Town Centres establishes that edge of centre and out of centre development will only be allowed where it meets the requirements of the NPPF. Impact assessments will also be required as laid out by Local Plan Policy TC3: Thresholds for Impact Assessments. These should also comply with the requirements of the NPPF.

Local Plan Policy T3: Thresholds for Impact Assessments states that proposals for retail and leisure uses will be required to provide an impact assessment if they are of a scale, role or function where they could have a negative impact on the vitality and viability of the centre and are:

Located outside the Primary Shopping Area of Barnsley Town Centre and are:

- Within the catchment of Barnsley Town Centre; and
- Have a floorspace in excess of 2,500 square metres gross.

Located outside the Primary Shopping Area of a District Centre and are:

- Within the catchment of a District Centre; and
- Have a floorspace in excess of 1,000 square metres gross.

Located outside a Local Centre and are:

- Within the catchment of a Local Centre; and
- Have a floorspace in excess of 500 square metres gross.

If the local planning authority (LPA) has concerns that a proposal below these floorspace thresholds may have a significantly adverse impact on centres, the LPA may require an impact assessment as part of a planning application.

The application proposal does not exceed any of the locally defined thresholds set out by Local Plan Policy TC3. Nevertheless, for proposals below these thresholds, an assessment needs to be made as to whether there would be any significant adverse impact on centres, which may require an impact assessment. In this instance, given the distance from defined Town, District and Local Centres and similar leisure facilities such as provided by the Barnsley Metrodome, and the small-scale operations proposed, the proposal is unlikely to have a significant adverse impact on centres, and therefore, an Impact Assessment is not required in this instance, in accordance with paragraph 94 of the NPPF and Local Plan Policies TC1 and TC3.

The development site is allocated as urban fabric within the adopted Local Plan which has no specific allocation. Development is therefore acceptable in principle if proposals would not adversely affect residential amenity, highway safety, and where satisfactory standards of design are achieved.

Non-residential uses within residential settings are considered acceptable where the majority of the floorspace would remain as residential and adequate parking would be provided. The development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or people.

Considering the above, this proposal could prove acceptable in principle subject to an assessment of the following matters.

#### Impact on Residential Amenity, Health and Pollution Control

During the application process, concerns were raised regarding the session timetable and potential noise and disturbance impacts. It was suggested that at weekends the session timetable could begin later and that the bi-fold doors could remain closed when the business use is in operation.

The proposed business use would operate between 09:30am – 19:00pm Monday – Sunday and for no more than 3-hours on any given day and no more than 18-hours in any calendar week. The pool would be used for personal use outside of business hours. It is anticipated that there could be up to a maximum of 8 clients per session.

It is acknowledged that the intensification of the use of the existing domestic swimming pool to offer swimming lessons and/or for private hire could contribute to some additional noise and disturbance impacts that could affect neighbouring residents. However, within the context of existing nearby farm activities and moderately trafficked roads any potential impact is not considered to be detrimental to the amenity of local residents, especially as the business use would operate within reasonable hours for limited periods. Any potential impact is anticipated to be temporary for limited periods on the days in which it would operate. This application is also supported by a Noise Impact Assessment (NIA). Should this application be approved, the hours of operation could be conditioned alongside limits on maximum daily and weekly hours of operation. The proposal could also be approved on a temporary basis to enable relevant Council departments to monitor the extent of any potential impacts.

Furthermore, the Council's Environmental Health Officer (Pollution Control) was consulted; and no objections were raised subject to conditions.

It is not considered that the proposal would contribute to significant overshadowing, overlooking and loss of privacy, or reduced outlook impacts which may otherwise adversely affect the amenity of the occupants of the application and neighbouring properties as no extensions or external alterations to the application dwellinghouse are proposed.

A 2-metre-high timber fence has been erected on the north side of the access road and to the rear of properties on Redbrook Mill Close. The fence is slatted translucent structure that does not affect the existing separation distance between these properties and the boundary. The properties are also set below an existing boundary wall with Google Street View imagery showing some of them having erected their own fences prior to the installation of the current fence. Therefore, the amenity of these residents is unlikely to be significantly detrimentally affected. Properties on Redbrook Mill Close were also notified of this application; and no objections were received.

Considering the above, this is considered to weigh significantly in favour of the proposal.

*The proposal is therefore considered to comply with Local Plan Policy GD1: General Development and Local Plan Policy POLL1: Pollution Control and Protection and is considered acceptable regarding residential amenity.*

#### Impact on Highways and Public Rights of Way (PROW)

During the application process, concerns were raised regarding parking and traffic.

The application dwellinghouse is served by an area of hardstanding to the east that is used for off-street vehicular parking. On-street parking on both sides of the private access road and PROW also occurs.

This application is supported by a parking plan and swept path analysis that demonstrates that eight on-street parking spaces could be accommodated to the front of the application dwellinghouse while achieving adequate turning provision and not prejudicing access along the access road and PROW.

Highways Development Control were consulted; and no objections were received. It was suggested that if approved, the permission should be granted on a personal, temporary basis to ensure that the proposal would not detrimentally impact the public highway. Further monitoring would be undertaken by Highways colleagues during this period to assess the extent of any potential impacts.

Public Rights of Way were consulted. However, no response was received. Therefore, the LPA has reverted to comments provided by PROW colleagues at the pre-application stage. It was stated that the PROW should not be blocked by parked cars. The applicant should be aware that the Council is only responsible for maintaining the footpath in a safe condition for pedestrians and any maintenance to a vehicular standard is the responsibility of the landowner and any damage caused to the surface by vehicles should be repaired by the landowner.

The LPA has no reason to disagree with the professional opinions of colleagues in this instance and should this application be approved, permission should be granted on a temporary basis.

Considering the above, this is considered to weigh moderately in favour of the proposal.

*The proposal is therefore considered to comply with Local Plan Policy T4: New Development and Transport Safety and Local Plan Policy GS2: Green Ways and Public Rights of Way and is considered acceptable regarding highway safety.*

#### Impact on Visual Amenity

It is not considered that this proposal would markedly alter or detract from the character of the street scene or application property as no extensions or alterations are proposed beyond the retrospective erection of a boundary fence on the north side of the access road. The fence is suitable for domestic settings and has a relatively neutral presence and appearance within the street scene.

Considering the above, this is considered to weigh modestly in favour of the proposal.

*The proposal is therefore considered to comply with Local Plan Policies D1: High Quality Design and Placemaking and is acceptable regarding visual amenity.*

#### Impact on Flood Risk

The development site is located within Flood Zone 3 and is therefore at an increased risk of flooding. Paragraph 176 of the NPPF establishes that applications for some minor development and changes of use should not be subject to the sequential test, nor the exception test, but should still meet the requirements for site-specific flood risk assessments set out in footnote 63. Footnote 63 establishes that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3.

The Environment Agency were consulted; and an initial objection was received because of the lack of a flood risk assessment (FRA).

The applicant submitted a FRA and the Environment Agency were re-consulted. No objections were received subject to the inclusion of informative(s).

Considering the above, this is considered to weigh moderately in favour of the proposal.

*The proposal is therefore considered to be comply with paragraph 176 and footnote 63 of the NPPF, Local Plan Policy CC3: Flood Risk and is considered acceptable regarding impact on flood risk.*

#### Impact on Contaminated and Unstable Land

The development site is within a development high risk area as identified by the Mining Remediation (Coal) Authority due to the probable presence of shallow coal.

The Mining Remediation (Coal) Authority were consulted. However, no response was received.

South Yorkshire Mining Advisory Service (SYMAS) was consulted; and no objections were received as the proposal involves a change of use and no ground works. SYMAS consider the application to be exempt from the Coal Mining Risk Assessment requirements for this reason. SYMAS suggested that should this application be approved an informative should be included.

Considering the above, this is considered to weigh moderately in favour of the proposal.

*The proposal is therefore considered to comply with Local Plan Policy CL1: Contaminated and Unstable Land and is considered acceptable.*

#### Impact on Biodiversity and Geodiversity

In England, Biodiversity Net Gain (BNG) became mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and means developers must deliver a BNG of 10%. This proposal falls within the de minimis exemption and is therefore not subject to BNG in this instance.

*The proposal is therefore considered to comply with Local Plan Policy BIO1: Biodiversity and Geodiversity and is considered acceptable.*

#### Planning Balance and Conclusion

In accordance with the provision of paragraph 11 of the NPPF (2024), the proposal is considered in the context of the presumption in favour of sustainable development.

Having balanced all material planning considerations, whilst some objections have been received in respect of this proposal, it is considered that concerns have been appropriately addressed through the information provided and agreed planning conditions. The proposal is considered acceptable in respect of its potential impact on residential amenity, health and pollution control, visual amenity and highways and public rights of way, flood risk, contaminated and unstable land, and biodiversity and geodiversity.

For the reasons given above, and taking all other matters into consideration, this proposal complies with the relevant local and national planning policies and guidance, and as such, planning permission should be granted subject to necessary conditions.

**RECOMMENDATION: Approve subject to conditions.**

#### **Justification**

##### **Statement of compliance with Article 35 of the Town and Country Development Management Procedure Order 2015.**

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

- *Additional information sought in relation to noise impact.*
- *Additional information sought in relation to boundary fence.*
- *Amended description to better reflect the proposal and to include a boundary fence.*

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering representations, the determination of the application and the resulting recommendation. It is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.