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The Chair and Members of Planning
Committee

Councillors J Innes and P Innes –
Site Visit 1
Councillors J Innes and P Innes –
Site Visit 2
Councillors Falconer and Perkins –
Site Visit 3

20 October 2017

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on MONDAY, 30 OCTOBER 2017 at 3.00 pm in Committee Room 1, Town Hall, Rose Hill, Chesterfield S40 1LP, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

PLEASE NOTE THAT THE MEETING WILL BE PRECEDED BY THE FOLLOWING SITE VISITS.

Planning Committee Members should assemble in Committee Room 1 at 13:05. Ward members wishing to be present should attend on site as indicated below:-

1. 13:20 Discovery Way, Chesterfield
CHE/17/00327/FUL

2. 13:40 Unit 2 Whitting Valley Road, Chesterfield
CHE/17/00625/COU

3. 14:00 Perrys site, Chatsworth Road, Chesterfield
CHE/17/00209/FUL

Members are reminded that only those attending on site will be eligible to take part in the debate and make a decision on these items. Members intending to declare a Disclosable Pecuniary Interest, or any other matter which would prevent them taking part in discussions on an item, should not attend the site visit for it

Ward members are invited to attend on site and should confirm their attendance by contacting Democratic Services via email: Democratic.Services@Chesterfield.gov.uk by 9.00 a.m. on Monday 30 October, 2017. If you do not confirm your attendance, it will be assumed that you will not be attending on site.

Please ensure that all mobile phones are switched off during site visits and at the meeting at the Town Hall.

1. Apologies for Absence
2. Declarations of Members' and Officers' Interests Relating to Items on the Agenda
3. Minutes of Planning Committee (Pages 5 - 30)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 31 - 128)
5. Building Regulations (P880D) (Pages 129 - 130)
6. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 131 - 146)
7. Applications to Fell or Prune Trees (P620D) (Pages 147 - 158)
8. Appeals Report (P000) (Pages 159 - 184)
9. Enforcement Report (P410) (Pages 185 - 188)
10. Review of Delegation Scheme and Planning Committee Procedures (Pages 189 - 210)

11. Diversion of Public Rights of Way and at Peak Resort (Ecodome site)
Sheffield Road, Chesterfield (Pages 211 - 226)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Randy', written in a cursive style.

Local Government and Regulatory Law Manager and Monitoring Officer

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PLANNING COMMITTEE

Monday, 9th October, 2017

Present:-

Councillor Brittain (Chair)

Councillors Hill T Gilby Callan Simmons Catt Miles	Councillors P Barr Brady Wall Bingham Sarvent
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*Matters dealt with under the Delegation Scheme

The following site visits took place immediately before the meeting and were attended by the following Members:-

CHE/17/00456/OUT - Outline planning application for the demolition of the existing dwelling and proposed construction of 2 four bedroom detached dwellings with integral garages - description and proposals amended from previously intended alterations to existing dwelling 10.08.2017 at 20A Avondale Road, Chesterfield, Derbyshire S40 4TF for Saint Developments.

Councillors P Barr, Bingham, Brady, Brittain, Brunt (ward member), Callan, Catt, Dickinson (ward member), T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

CHE/17/00237/OUT - The retention and conversion of Thornfield House and the demolition of other associated buildings and redevelopment for residential use – resubmission of CHE/16/00653/OUT – amended plans and description 7/9/17 at Commerce Centre, Canal Wharf, Chesterfield, Derbyshire S41 7NA for East Midland Chamber of Commerce.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Catt, T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

Addendum report to CHE/17/00344/FUL - Full planning application for the installation of storage containers for use as a storage yard, installation of security fencing and a new vehicular access with drop kerb – revised plans received 6.7.2017 at land to the west side of Thompson Street, Chesterfield for Mr Matthew Follon.

Councillors Bingham, Brady, Brittain, Callan, Catt, T Gilby, Hill, J Innes (ward member), P Innes (ward member), Miles, Sarvent, Simmons and Wall.

CHE/17/00546/FUL - Proposed construction of a three bedroom bungalow with garage at land to rear of 11 Chesterfield Road, Brimington, Chesterfield, Derbyshire for Mr James Chapman.

Councillors P Barr, Bellamy (ward member), Bingham, Brady, Brittain, Callan, Catt, T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

CHE/17/00390/OUT - Outline application for residential development with all matters reserved except access for up to 17 dwellings (in addition to retention of existing farmhouse and conversion of existing cartshed to garaging) including associated infrastructure works at Pondhouse Farm, 2 Troughbrook Road, Hollingwood, Chesterfield, Derbyshire, S43 2JP for Chatsworth Settlement Trustees.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Catt, T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

CHE/17/00384/FUL - Conversion of existing buildings to 4 two bedroom dwellings, 2 ground floor one bed apartments and 2 two bed duplexes at Jubilee Works, Middlecroft Road, Staveley S43 3XN.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Catt, T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

60 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Caulfield, Davenport and Elliott.

61 **DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS
RELATING TO ITEMS ON THE AGENDA**

Councillor P Barr declared an interest in agenda item 5 (Addendum report to CHE/17/00344/FUL – Installation of storage containers for use as a storage yard, installation of security fencing and a new vehicular access at Land to the west side of Thompson Street, Chesterfield) as an objector was personally known to him.

62 **MINUTES OF PLANNING COMMITTEE**

RESOLVED -

That the Minutes of the meeting of the Planning Committee held on 18 September, 2017 be signed by the Chair as a true record.

63 **APPLICATIONS FOR PLANNING PERMISSION - PLANS
DETERMINED BY THE COMMITTEE**

*The Committee considered the under-mentioned applications in light of reports by the Development Management and Conservation Manager and resolved as follows:-

CHE/17/00456/OUT - OUTLINE PLANNING APPLICATION FOR THE DEMOLITION OF THE EXISTING DWELLING AND PROPOSED CONSTRUCTION OF 2 FOUR BEDROOM DETACHED DWELLINGS WITH INTEGRAL GARAGES - DESCRIPTION AND PROPOSALS AMENDED FROM PREVIOUSLY INTENDED ALTERATIONS TO EXISTING DWELLING 10.08.2017 AT 20A AVONDALE ROAD, CHESTERFIELD, DERBYSHIRE S40 4TF FOR SAINT DEVELOPMENTS

In accordance with Minute No.299 (2001/2002) Mr Steve Brunt (objector), Mr M Crawley (objector) and Mr Peter Wilkinson (agent of applicant), addressed the meeting.

That the officer recommendation be upheld and the application be approved subject to the following conditions:-

1. Approval of the details of the access, scale, layout, external appearance and landscaping of the site (hereinafter called "the reserved

matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. Details of the existing and proposed land levels and the proposed floor levels of the dwellings hereby approved shall be submitted in writing concurrently with any application for the reserved matters being submitted to the Local Planning Authority for consideration. The details submitted shall include sufficient cross sections to fully assess the relationship between the proposed levels and immediately adjacent land/dwellings. The dwellings shall be constructed at the levels approved under this condition unless otherwise agreed, in writing, by the Local Planning Authority.

5. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.

6. Unless otherwise approved in writing by the Local Planning Authority demolition, remediation or construction work to implement the permission hereby granted shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

7. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for storage of plant and materials and the parking of site operatives vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval

and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

8. Before any other operations are commenced, a new vehicular and pedestrian access shall be formed to Avondale Road, located, designed, laid out, constructed and provided with visibility splays of 2.4m x maximum achievable over land the subject of the application/highway in both directions, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

9. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking of vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

10. The proposed access/driveways to Avondale Road shall be no steeper than 1 in14 over its entire length.

11. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by The Local Planning Authority.

12. No development shall take place until site investigation works have been undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. Details of the site investigation works shall be submitted to and approved in writing by The Local Planning Authority. The details shall include;

- The submission of a scheme of intrusive site investigations for approval;
- The undertaking of that scheme of intrusive site investigations;
- The submission of a report of findings arising from the intrusive site investigations;
- The submission of a scheme of remedial works for approval; and
- Implementation of those remedial works.

CHE/17/00390/OUT - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT WITH ALL MATTERS RESERVED EXCEPT ACCESS FOR UP TO 17 DWELLINGS (IN ADDITION TO RETENTION OF EXISTING FARMHOUSE AND CONVERSION OF EXISTING CARTSHED TO GARAGING) INCLUDING ASSOCIATED INFRASTRUCTURE WORKS AT PONDHOUSE FARM, 2 TROUGH BROOK ROAD, HOLLINGWOOD, CHESTERFIELD, DERBYSHIRE, S43 2JP FOR CHATSWORTH SETTLEMENT TRUSTEES

In accordance with Minute No.299 (2001/2002) Mr D Peck of Planning & Design Group (agents for the applicant), addressed the meeting.

That the officer recommendation not be upheld and the application be refused for the following reason:-

The application site is considered to be (in part) greenfield land which is protected from development by the allocation of policy EVR2 of 2006 Local Plan which was saved in the adoption of the 2013 Chesterfield Local Plan: Core Strategy 2011 - 2031.

In accordance with provisions of policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 - 2031, the wider provisions of the National Planning Policy Framework and the fact the Local Planning Authority can currently demonstrate a 5 year supply of deliverable housing sites; the principle of residential development on this part greenfield site is contrary to policy CS10 and is therefore considered to be unacceptable.

CHE/17/00237/OUT - THE RETENTION AND CONVERSION OF THORNFIELD HOUSE AND THE DEMOLITION OF OTHER ASSOCIATED BUILDINGS AND REDEVELOPMENT FOR RESIDENTIAL USE – RESUBMISSION OF CHE/16/00653/OUT – AMENDED PLANS AND DESCRIPTION 7/9/17 AT COMMERCE CENTRE, CANAL WHARF, CHESTERFIELD, DERBYSHIRE S41 7NA FOR EAST MIDLAND CHAMBER OF COMMERCE

In accordance with Minute No.299 (2001/2002) Ms Clare Plant of DLP Planning Consultants (agents for the applicant), addressed the meeting.

That the officer recommendation be upheld and the application be approved subject to the following conditions:-

- (A) 1. Approval of the details of the access, scale, layout, external appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The reserved matters details shall include existing and proposed land levels and the proposed floor levels of the dwellings hereby approved together with sufficient cross sections to fully assess the relationship between the proposed levels and immediately adjacent land/dwellings. The dwelling shall be constructed at the levels approved under this condition unless otherwise agreed, in writing, by the Local Planning Authority.
5. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.
6. Prior to the commencement of development a detailed enhancement strategy that provides details of enhancement measures for roosting bats and nesting birds shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter. The scheme shall include provision within the new dwellings (as integral boxes) rather than in retained trees.
7. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development and the agreed scheme shall be implemented as part of the development hereby agreed.

8. Prior to the commencement of any demolition a Demolition and Construction Management Plan shall be submitted to the Local Planning Authority for consideration and written approval. The Plan shall include measures to mitigate the impacts of the works on noise, dust and pollution.
9. Demolition and Construction work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.
10. Prior to development commencing a suitable noise assessment, such as BS4142 shall be submitted. The noise assessment shall be submitted to the council and approved in writing. If the noise assessment determines that the properties should be include noise mitigation; these proposals should set out in a report format, submitted in writing to the council and approved prior to commencement of development.
11. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
- II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.
- III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.

C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

12. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by The Local Planning Authority.

13. No development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

14. Before any other operations are commenced, excluding construction of the temporary access referred to in Condition 13 above, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

15. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6 C's Highways document.

16. No development shall take place until construction details of the residential estate road(s) and footway(s) (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

17. The carriageway(s) of the proposed estate road(s) shall be constructed in accordance with Condition 16 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

18. Before any other operations are commenced a new vehicular junction shall be formed to Canal Wharf and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres in both directions measured along the nearside carriageway edge in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) above ground level.

19. Before any other operations are commenced (excluding creation of the new access, the subject of condition 18 above), any redundant vehicular and pedestrian accesses to Canal Wharf shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

20. No dwelling shall be occupied until space has been laid out within the site in accordance with details submitted and agreed under a reserved or full matters application for cars to be parked and for the loading and

unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear.

21. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

22. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

23. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

24. No development shall take place until site investigation works have been undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. Details of the site investigation works shall be submitted to and approved in writing by The Local Planning Authority. The details shall include;

- The submission of a scheme of intrusive site investigations for approval;
- The undertaking of that scheme of intrusive site investigations;
- The submission of a report of findings arising from the intrusive site investigations;
- The submission of a scheme of remedial works for approval; and
- Implementation of those remedial works.

25. A detailed tree protection plan shall be submitted conforming to BS 5837 'Trees in Relation to Design, demolition and construction -

Recommendations' 2012 for the consideration of the Council and approval in writing. The scheme shall include Root Protection Areas for all trees to be retained on the site and a Method Statement in respect of development in the proximity to the trees to be retained. There shall be no structures built within the Root Protection Areas of the trees retained on the site. The development shall only proceed on the basis of the agreed details.

26. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

27. The development hereby approved shall include the provision of appropriate infrastructure to enable the dwellings to have high speed broadband, in accordance with details to be submitted to, and approved in writing, by the Local Planning Authority.

(B) That a Section 106 Agreement shall be negotiated and signed concurrent with the planning permission and relating to:

- A percent for Art scheme.
- Clauses to secure the retention of Thornfield House in the scheme on the basis of no affordable housing provision. Contribution to Clinical Commissioning Group of £11,412

Councillor Hill left the meeting at this point and did not return.

CHE/17/00384/FUL - CONVERSION OF EXISTING BUILDINGS TO 4 TWO BEDROOM DWELLINGS, 2 GROUND FLOOR ONE BED APARTMENTS AND 2 TWO BED DUPLEXES AT JUBILEE WORKS, MIDDLECROFT ROAD, STAVELEY S43 3XN

In accordance with Minute No.299 (2001/2002) Ms Linda Trollope (on behalf of the applicant), addressed the meeting.

That the officer recommendation be upheld and the application be approved subject to the following conditions:-

A. 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. All external dimensions and elevational treatments shall be as shown on the approved plans:

- Boundary Wall Drawing no.P-473.11
- Location Drawing no.P-473.6 rev.E
- Planning Elevations no.P-473.1 rev.B
- Design and Access Statement
- Planning – Layouts GF Drawing no.P-473.4
- Planning – Layouts Drawing no.P-473.5 rev.A.

with the exception of any approved non material amendment.

3. Before any operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods, vehicles, parking and manoeuvring of employees and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designed use throughout the construction period.

4. No dwelling shall be occupied until space has been laid out within the site in accordance with the approved drawings for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

6. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the cladding materials to be used shall be submitted to the Local Planning Authority for

consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

7. Work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

8. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

9. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues and contamination on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the remediation/stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

10. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include proposed finished levels; means of enclosure; gates; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and bin storage areas. The agreed details shall be implemented as part of the development and be retained thereafter.

B. That a CIL Liability Notice be served for £6,800 as per section 9.0 of the officer's report.

CHE/17/00546/FUL - PROPOSED CONSTRUCTION OF A THREE BEDROOM BUNGALOW WITH GARAGE AT LAND TO REAR OF 11 CHESTERFIELD ROAD, BRIMINGTON, CHESTERFIELD, DERBYSHIRE FOR MR JAMES CHAPMAN

That the officer recommendation be upheld and the application be approved subject to the following conditions:-

- A. 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plan/s (see list below), with the exception of any approved non material amendment;
- 17.15.02 Rev A (dated 28.07.17) proposed site and floorplan
 - 17.15.03 (dated 28.07.17) proposed elevations
 - 17.15.01 (dated 03.07.17) Site survey
 - Design and Access Statement
3. Before construction works commence or ordering of external materials takes place, precise, specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.
4. Before any operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, designed, laid out and constructed all as may be agreed with the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.
5. The dwelling subject of the application shall not be occupied until on-site parking spaces have been provided and laid out in accordance with application drawing 17.15.02 Rev A and maintained thereafter free from any impediment to designated use.
6. Prior to the occupation of the dwelling, adequate bin storage and a bin dwell area for use on refuse collection days shall be provided on site in accordance with the application drawing 17.15.02 Rev A and retained thereafter free from impediment to designated use.
7. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-

off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details

8. Unless otherwise approved in writing by the Local Planning Authority demolition, remediation or construction work to implement the permission hereby granted shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

9. The land in advance of the visibility sightlines (within the ownership of the applicant) detailed in 'Drawing 1 Visibility Sightlines (27.09.2017)' shall be retained throughout the life of the development free of any obstruction greater than 1m in height (0.6m in the case of vegetation).

10. There shall be no gates or other barriers unless otherwise agreed in writing by the Local Planning Authority.

11. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

B. That a CIL Liability Notice be served for £6,050 as per section 5.10 of the officer's report.

CHE/17/00590/HAZ - APPLICATION TO AMEND EXISTING HAZARDOUS SUBSTANCES CONSENT (CHE/16/00535/HAZ) TO STORE 750 TONNES OF SODIUM HYPOCHLORITE (H400 AND <5%), 3,200 TONNES OF FLAMMABLE AEROSOLS; 220 TONNES OF FLAMMABLE LIQUIDS; 40 TONNES OF FLAMMABLE LIQUIDS WITH HAZARD TO AQUATIC ENVIRONMENT IN CATEGORY CHRONIC 2; 300 TONNES OF HAZARD TO AQUATIC ENVIRONMENT IN CATEGORY CHRONIC 1; AND 30 TONNES OF HAZARD TO AQUATIC ENVIRONMENT IN CATEGORY CHRONIC 2 AT GREAT BEAR, PLOT 1 SOUTH, MARKHAM VALE, CHESTERFIELD, DERBYSHIRE FOR GREAT BEAR DISTRIBUTION

That the officer recommendation be upheld and the application for hazardous substances consent for the storage of up to 750 tonnes of sodium hypochlorite (H400 and <5%), 3,200 tonnes of flammable aerosols; 220 tonnes of flammable liquids; 40 tonnes of flammable liquids with hazard to aquatic environment in category chronic 2; 300 tonnes of hazard to aquatic environment in category chronic 1; and 30 tonnes of hazard to aquatic environment in category chronic 2 be approved.

64 **ADDENDUM REPORT FOR APPLICATION IN RESPECT OF THE LAND TO THE WEST SIDE OF THOMPSON STREET, CHESTERFIELD**

Councillor P Barr who had declared an interest in this item left the meeting at this point.

ADDENDUM REPORT TO CHE/17/00344/FUL - FULL PLANNING APPLICATION FOR THE INSTALLATION OF STORAGE CONTAINERS FOR USE AS A STORAGE YARD, INSTALLATION OF SECURITY FENCING AND A NEW VEHICULAR ACCESS WITH DROP KERB – REVISED PLANS RECEIVED 6.7.2017 AT LAND TO THE WEST SIDE OF THOMPSON STREET, CHESTERFIELD FOR MR MATTHEW FOLLON

In accordance with Minute No.299 (2001/2002) Mrs Kate Follon (applicant), Mr Gary Fountain (agent of applicant), Councillor P Innes (objector) and Mrs Johnson Mowbray (objector), addressed the meeting.

That the officer recommendation be upheld and the application be approved subject to the following conditions as set out in the recommendation of the officer's report attached at Appendix A:-

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans, with the exception of any approved non material amendment.
3. Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Thompson Street in accordance with the revised application drawing and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured

along the centreline of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level. The vehicular and pedestrian access shall be maintained and kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out on that area of land or to preclude vehicular access thereto.

4. There shall be no gates or other barriers set forward of the visibility splay line specified in condition 3 above.

5. The proposed access/drive to Thompson Street shall be no steeper than 1 in 14 over its entire length.

6. The timber perimeter fencing shall be painted or stained dark green and retained throughout the life of the development

7. Prior to occupation of the development hereby approved, details of any external lighting shall be submitted to and approved by the Local Planning Authority. Such details shall include siting, angles, levels of illumination and any shields. The details shall be implemented in accordance with those approved and should ensure that the light falls wholly within the curtilage of the site.

8. The area shown as cross hatched on the revised plan shall be maintained clear of all obstructions and be available for loading/unloading and manoeuvring of vehicles in connection with the use of the containers hereby approved.

Councillor P Barr returned to the meeting.

65 **APPLICATIONS FOR PLANNING PERMISSION - PLANS DETERMINED BY THE DEVELOPMENT MANAGEMENT AND CONSERVATION MANAGER (P140D)**

*The Development Management and Conservation Manager reported that pursuant to the authority delegated to him, he had determined the under-mentioned applications subject to the necessary conditions:-

(a) Approvals

CHE/17/00252/OUT	Pair of 2 bedroom semi-detached houses at 20 Harehill Road Grangewood S40 2JA for Mr Nigel A James
CHE/17/00378/MA	Material amendment to application CHE/16/00175/FUL as amended by CHE/16/00797/REM1 - Relocation of the current diesel/adblue fuelling point (90,000 litre) and provision of a vehicle wash to the yard to the rear of the access road at Plot 13 Markham Lane Duckmanton for Great Bear Distribution Ltd
CHE/17/00387/REM1	Variation of permission to allow for the development for the 3 new plots and existing house to be accessed via the new access - previous approval CHE/07/00776/FUL at Hilltop 234 Hady Hill Hady S41 0BJ for Mr Anthony Stubbins
CHE/17/00429/COU	Change of use from showroom (class A1) to a beauty salon (Sui Generis) at 385 Chatsworth Road Chesterfield S40 2DH for Mrs Dolphin-Yates
CHE/17/00436/FUL	Installation and operation of a back-up electricity generation facility at land at Whittington Road Barrow Hill for Mercia Power Response
CHE/17/00444/FUL	Conversion and refurbishment of the first and second floors to create four residential units with associated access at 43 Knifemithgate Chesterfield S40 1RL for AASDZ Ltd
CHE/17/00461/FUL	Construction of a two-storey extension to existing radiology department building inc. MRI scanner rooms and associated supporting accommodation to an existing internal courtyard adjacent to the A&E department - revised plans received 14/08/2017 and 23/08/2017 at Chesterfield And North Derbyshire Royal Hospital Chesterfield Road Calow S44 5BL for Chesterfield Royal Hospital NHS Foundation Trust

- CHE/17/00467/FUL Change of use of rear of premises from community hall to dwelling at 27 Willow Garth Road Newbold S41 8BL for Mr Philip Webb
- CHE/17/00470/FUL Proposed single storey rear extension to dwelling and creation of first floor over existing flat roofed extension at 3 Marchwood Close Brockwell Chesterfield S40 4DT for Mr Thorpe and Ms Watson
- CHE/17/00481/FUL Demolition of existing garage and erection of a replacement garage and kitchen extension at 1 Penmore Close Hasland S41 0SH for Mr John Smith
- CHE/17/00493/FUL First floor rear extension at 6 Park Hall Avenue Walton S42 7LR for Mr Alan Leedham
- CHE/17/00505/TPO T3 Sycamore lift crown to prevent low branch damage by vehicles. Left side of car park access at Eyre Chapel Newbold Village Newbold Road Newbold S41 8RJ for Cllr Peter Barr
- CHE/17/00507/FUL Installation of externally fitted disabled access platform lift from ground floor to first floor at front of building and alteration to stepped access to main building entrance at Bayheath House Rose Hill West S40 1JF for Derbyshire Healthcare NHS Foundation Trust
- CHE/17/00512/FUL Single storey rear extension at 548 Chatsworth Road Chesterfield S40 3AY for Mr and Mrs Needham
- CHE/17/00513/FUL Detached concrete sectional domestic garage at land at Newbridge Lane Brimington for Mr Andrew Bellas
- CHE/17/00515/FUL Two storey extension to rear - re-submission of CHE/17/00215/FUL at 21 Oldridge Close Holme

	Hall Chesterfield S40 4UF for Mr John East
CHE/17/00517/FUL	Side extension and garage conversion with addition of garden store to side at 18 Milldale Close Holme Hall Chesterfield S40 4RG for Mr Arthur Stocks
CHE/17/00524/ADV	Fascia signage and projecting sign at 23 Market Place Chesterfield S40 1PJ for Tui UK
CHE/17/00527/FUL	Erection of single storey rear conservatory style extension with solid roof and decking with steps to give access to rear garden at 252 Handley Road New Whittington S43 2ET for Mrs Sandra Davies
CHE/17/00528/FUL	Change of use of vacant industrial land to vehicle, plant and container storage yard at Unit 9 Sheepbridge Works Sheepbridge Lane Sheepbridge S41 9RX for Hall Plant Hire Ltd
CHE/17/00529/FUL	Retaining walls for step lift to front garden and new ramping and landings for the provision of disabled facilities at 35 Troughbrook Road Hollingwood S43 2JN for Mr D Green
CHE/17/00530/FUL	Extension to lounge and porch at front of property at 196 Ashgate Road Chesterfield S40 4AL for Mr and Mrs Warrilow
CHE/17/00536/FUL	Single-storey extension of approximately 245sqm of D1 use to the Emergency Department of Chesterfield Royal Hospital including associated external works at Chesterfield And North Derbyshire Royal Hospital Chesterfield Road Calow S44 5BL for Chesterfield Royal Hospital NHS Foundation Trust
CHE/17/00543/ADV	New signage - amended plans received 25/09/2017 at land off Braidwood Way north of Byron Street Birdholme for Perrys Ford
CHE/17/00544/FUL	Proposed first floor side extension and alterations

- to front garage roof at 39 Holme Park Avenue
Upper Newbold S41 8XB for Dr T Bendinger
- CHE/17/00549/FUL Small ground and first floor extension at the rear of the property, in brick (to match existing as close as possible) with concrete tile roof at 63 Norwood Avenue Hasland S41 0NN for Mr David Keeton
- CHE/17/00567/TPO G1 - Re-pollard (plus possible die back at top following previous treatment) at 22 Netherleigh Road Ashgate Chesterfield S40 3QJ for Mr Gordon Dent
- CHE/17/00588/TPO T1 - Sycamore - Crown lift, T2 - Ash - sever ivy round butt, T3 - Ash - Crown lift, T4 - Ash - Crown lift, T5 - Horse Chestnut - Crown lift, T6 - Crown lift, T7 - Lime - Crown Lift, T10 - Beech - Crown lift, T12 - Sycamore - Deadwood clean out, T19 - Sycamore - Crown lift, T22 - Sycamore - Crown lift, T26 - Horse Chestnut - Crown lift, T27 - Horse Chestnut - Clean out deadwood and T28 - Lime - Clean out deadwood at The Rectory Church Street Staveley S43 3TN for Derby Diocesan Board of Finance Ltd
- CHE/17/00596/CA T8 - Ash - Crown lift; T24 - Ash - Sever Ivy; G1 - Ash, Elder, Sycamore, Horse Chestnut - Tree Roots from Kerb; T29 - Rowan - Crown lift; T30 - Rowan - Crown lift; G2 - Ash, Laurel, Sycamore, Horse Chestnut - Fell and poison ash and sycamore, tip back retained trees and Laurel; T32 - Cypress - Tip back; G3 - Elder, Sycamore - fell and poison Stumps at The Rectory Church Street Staveley S43 3TN for Derby Diocesan Board Of Finance Ltd
- CHE/17/00606/TPO Sweet Chestnut Tree - Reduction of canopy by 1m, clean and prune and raise to 3m, removal of crossing branches, 5% thin and maintain shape and maintenance at 7 Upland Rise Walton S40 2DD for Mr Alan Kirk

- CHE/17/00608/TPO Crown lifting and crown reduction to trees T3 and T4 at 1 Fenland Way Chesterfield S40 3RH for Mr Raymond Moore
- CHE/17/00637/NMA Non-Material Amendment for CHE/15/00024/FUL - Introduction of ramp to service area, back of house door re-positioned, removal of chimney and telecoms equipment and use of quality artificial slate in lieu of natural roof slate at The Wheatsheaf 74 Newbold Village Newbold Road Newbold S41 8RJ for New River REIT
- CHE/17/00638/NMA Non-Material Amendment regarding CHE/16/00428/FUL - Alteration to garage door width, canopy to front door recess. hipped roof to south-west elevation replaced with a gable feature. Bi-folding doors and windows to the rear elevation repositioned. Modified detail to opening cills and head at land to rear of 19 Bentham Road Chesterfield for Mr David Jackson
- CHE/17/00642/NMA Non-Material Amendment (repositioning of the flue) to CHE/16/00001/FUL (erection of a single storey rear extension with lower ground store with extended rear terrace and rear raised decking) at 30 Brookside Bar Chesterfield S40 3PJ for Mr Raymond Fletcher
- CHE/17/00643/TPO Proposed works to trees T1, T2, T3, T4, T5, T6 and T7 at land between 181 and 183 Hady Hill Hady for Mr Mark Wilson
- CHE/17/00646/TPO Oak tree - crown lift and crown thin. Beech tree - crown lift and crown clean. Low over highway/driveway. Allow more light. Remove dead wood at 68 Mansfield Road Hasland Derbyshire S41 0JF for Mr and Mrs Gary Yates
- CHE/17/00656/TPO T1- a) Crown lift and removal of branches from main stem up to first major fork. b) Clear lamp head and telephone wires c) reduce branches growing towards property to give clearance of 2m d)

Deadwood T2 Plum tree - Crown reduce by 50% and reshape at 30 Devonshire Street Brimington Derbyshire S43 1JQ for Mr Michael Salt

CHE/17/00683/TPO Felling of one storm damaged Sycamore tree reference T18 of TPO at Trevilla 73 Hady Hill Hady Derbyshire S41 0EE for Mr Glyn Pocock

CHE/17/00694/CA Dismantle and fell one storm damaged Poplar Tree at The Old Rectory 408 Chatsworth Road Chesterfield Derbyshire S40 3BQ for Tomlinson Trees

(b) Discharge of Planning Condition

CHE/17/00557/DOC Discharge of conditions 3 (foul and surface water drainage) and 4 (site investigation) of CHE/14/00501/FUL - Extension to existing factory unit at Units 1 – 4 Highlands Place Foxwood Road Sheepbridge S41 9RN for Direct Property Ltd

(c) Prior notification approval not required

CHE/17/00509/SOL 100kW Solar PV Installation - installing approximately 371 270W Trina Solar Panels, ballasted on the school's flat roofs at Whittington Green School High Street Old Whittington S41 9LG for Whittington Green School

CHE/17/00610/TPD Proposed part brick part render sunroom with flat roof and skypod lantern in roof at 200 Highfield Lane Newbold S41 8BA for Mr Melvyn See

(d) Split decision with conditions

CHE/17/00554/TPO Lime T1 - 25-30% crown reduction to remove shading property. 5m crown lift property side and over the road. Reduce away from telephone line Beech T2 25-30% crown reduction. To reduce the overall size of crown and add shape - 20% crown thin at Russell House 16 Gladstone Road Chesterfield S40 4TE for A & J ARB ACCESS

(e) Prior Notification Demolition Approve

CHE/17/00593/DEM Demolition of 10 split-level multi-storey car park structure at Multi Storey Car Park Saltergate Chesterfield S40 1UL for Chesterfield Borough Council

(f) EIANR

CHE/17/00624/EIA Proposed demolition and reconstruction of the Saltergate Multi Storey Car Park at Multi Storey Car Park Saltergate Chesterfield for Chesterfield Borough Council

66 APPEALS REPORT (P000)

The Development Management and Conservation Manager reported on the current position in respect of appeals which had been received.

***RESOLVED –**

That the report be noted.

67 ENFORCEMENT REPORT (P410)

The Local Government and Regulatory Law Manager and the Development Management and Conservation Manager submitted a joint report on the current position regarding enforcement action which had been authorised by the Council.

***RESOLVED -**

That the report be noted.

68 REVIEW OF DELEGATION SCHEME AND PLANNING COMMITTEE PROCEDURES

This item was deferred to the meeting of the Committee on 30 October, 2017.

69 LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF PUBLIC**RESOLVED –**

That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 12A of the Act.

70 UNAUTHORISED LOFT CONVERSION AND EXTENSION AT 2 YORK STREET, HASLAND, CHESTERFIELD

The Development Management and Conservation Manager submitted a report on the unauthorised loft conversion and extension at 2 York Street, Hasland.

***RESOLVED –**

1. That authority be granted for the issue of an Enforcement Notice requiring the removal of the extension of the roof and external works at 2 York Street, Hasland, Chesterfield, Derbyshire.
2. That the period for compliance be 3 months.

Agenda Item 4

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 TH OCTOBER 2017
TITLE	DETERMINATION OF PLANNING APPLICATIONS
PUBLICITY	*For Publication
CONTENTS SUMMARY	See attached index
RECOMMENDATIONS	See attached reports
LIST OF BACKGROUND PAPERS	For each of the attached reports, the background papers consist of the file specified in the top right hand corner on the front page of the report. Those background papers on the file which do not disclose exempt or confidential information are open to public inspection at the office of the Development Management and Conservation Manager – Planning Services. Additional background papers (if any) will be separately listed in the report.

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**INDEX TO DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER'S REPORT ON THE 30TH OCTOBER 2017**

- ITEM 1** **CHE/17/00625/COU – Full Planning application for the change of use to a hand car wash at Unit 2, Whitting Valley Road, Old Whittington, Chesterfield, Derbyshire for Mr Majed Ali.**
- ITEM 2** **CHE/17/00209/FUL – Proposed – Demolition of existing buildings and structures (Sunday School building retained); and erection of a food store and creation of new/alterations to existing accesses with associated parking, servicing and landscaping (revised details received on 24/04/2017, 04/05/2017, 15/06/2017, 28/06/2017, 13/07/2017, 07/08/2017, 08/08/2017, 14/08/2017, 04/09/2017 and 04/10/2017) at Perrys Group (Ford), Chatsworth Road, Chesterfield, Derbyshire, S40 2BJ for LIDL UK GMBH.**
- ITEM 3** **CHE/17/00327/FUL - Erection of motor retail dealership comprising motor vehicle sales showroom, motor vehicle maintenance workshop and ancillary rooms, detached valet building, formation of access roads and associated hard and soft landscaping (revised plans received 24/08/2017) at Vertu Landrover, Discovery Way, Whittington Moor, Chesterfield, Derbyshire, S41 9EG for Vertu Motors plc.**

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Case Officer: Joe Freegard
Tel. No: (01246) 345580
Committee Date: 30th October 2017

File No: CHE/17/00625/COU
Plot No: 2/902

ITEM 1

FULL PLANNING APPLICATION FOR THE CHANGE OF USE TO A HAND CAR WASH AT UNIT 2, WHITTING VALLEY ROAD, OLD WHITTINGTON, DERBYSHIRE, DERBYSHIRE FOR MR MAJED ALI

Local Plan: Economic Growth
Ward: Old Whittington

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategy Planning Team	No objections
Environmental Services	No objections
Design Services	No objections
Environment Agency	No comments
Yorkshire Water	No objections
Lead Local Flood Authority	No comments
DCC Highways	No objections
Neighbours/Site Notice	2 letters of objection, petition signed by 13 individuals objecting to the plans and petition signed by 24 individuals supporting the plans.

2.0 **THE SITE**

2.1 The site the subject of the application comprises an area of land located at Unit 2 Whitting Valley Road in the Old Whittington area of Chesterfield. Whitting Valley Road is situated to the East of Station Road and Whittington Hill and predominantly comprises industrial units. The site itself is largely rectangular in shape, measuring approximately 0.1 hectares. The site is currently covered by hardstanding, with a plastic coated chain link fence and dwarf wall in blue forming the boundaries to the South East and South West of the site. A further chain link fence forms the boundaries to the North East and North West of the site, and vehicular access to the site is via a set of double gates to the South West. A shipping container and raised area of hardstanding are currently on site. Neighbouring residential properties are situated to the North East of the site at a higher level, a glazing services company is situated to the South East of the site, the roadway of Whitting Valley Road is situated to the South West of the site, and an autocare centre is situated to the North West of the site. The site is allocated within the Local Plan as an area for Economic Growth. The last use of the site is unknown, but likely to have been industrial.



3.0 **RELEVANT SITE HISTORY**

3.1 None.

4.0 **THE PROPOSAL**

4.1 A planning application has been made for the change of use of the site to a hand car wash. The proposed opening times are 09:00 and 18:00 on all days and it is expected that the equivalent of eight full time members of staff would be employed.

4.2 A shipping container is also proposed to be sited on the land, and this can be achieved under Permitted Development rights for an industrial site. No other alterations are proposed on site.

5.0 **CONSIDERATIONS**

5.1 **PLANNING POLICY**

5.2 The site is located within Whitting Valley Road Trading Estate, an existing business and industrial area and would be an appropriate use in accordance with Core Strategy policy CS13. The proposed development would enable job creation and support existing jobs, and support the role of Whitting Valley Road Trading Estate as an established employment location. It would accord with policies CS2 and CS13 of the adopted plan and would support the plan's spatial strategy and objectives. As the proposed floorspace does not qualify as a Major Application, there is no requirement to secure a Local Labour clause. The proposal is for employment related development and would not therefore be CIL-liable.

5.3 The application site is within the confines of an area identified in the Local Plan: Core Strategy as an area for economic growth. The application seeks to use the vacant site as a hand car wash facility. The application will create employment positions and in this context, and with regard to the location of the site and the requirements of Policy CS13 (Economic Growth) of the Core Strategy, the principle of the proposal is supported. Whilst the proposal is only a modest

form of development, it will nevertheless have a positive impact on economic growth. In summary, the proposal is considered acceptable in principle and therefore accords with Policies CS2 and CS13 of the Core Strategy, as well as the wider objectives of the NPPF.

- 5.4 The proposal is lacking in detailed design but should make effective use of the site to prevent any further impact on the visual amenity of the area through the site's longstanding vacancy. Overall, the proposed development should not detract from the character or appearance of the application site or the wider locality in order to comply with the design objectives of Policy CS18 of the Core Strategy and Chapter 7 of the NPPF. Core Strategy Policy CS18 requires that development will be expected to have an acceptable impact on the amenity of users and neighbours. The proposal is a relatively minor form of development in the scale of the wider established industrial/business area within which the site is set. However, the site does adjoin neighbouring residential properties and business uses. Having regard to any operational requirements from Environmental Health, if it is considered that the nature of the proposal and its scale, combined with its location and surrounding context would prevent any undue impact from the operation of the hand car wash on neighbouring amenity, the proposal would comply with criteria k) of Core Strategy Policy CS18 and Policy CS8 as well as the broad objectives of CS2. In addition the proposal should respond positively responds to one of the Core Planning Principles of the NPPF (paragraph 17) that, '...planning should: always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.
- 5.5 The proposal should comply with advice from the Highways Authority in order that it would not present a threat to highway safety that would be considered contrary to criteria g) of Policy CS18 of the Chesterfield Borough Local Plan: Core Strategy. Part of the site is located within Flood Risk Zone 3 but the proposed use is compatible with the level of flood risk to the extent that the proposal would accord with CS policy CS7. The proposal should comply with advice provided by Yorkshire Water Services Ltd in order to accord with the requirements of Policies CS7 and CS8 of the Local

Plan: Core Strategy (2013) insofar as managing drainage and preventing water contamination is concerned.

5.6 Overall it is considered that the proposed plans are in accordance with policy and the comments of the Strategy Planning Team are supportive. It is considered that the change of use of a site allocated for Economic Growth to a hand car wash is entirely appropriate in this location.

6.0 **Design and Appearance (Including. Neighbour Effect)**

6.1 As previously stated, a shipping container is proposed to be sited on the land. This can be achieved under Permitted Development rights for an industrial site and is not therefore considered as part of this application. No other alterations are proposed on site. It is considered that the operation of a hand car wash facility in this location could impact on neighbouring properties to an extent, given that residential properties are situated directly to the North East of the site. As such, Environmental Health were consulted on this application in order to assess the impact of noise - see below. It is not expected that the development would result in any adverse issues for neighbouring properties in terms of visual impact, overlooking, overshadowing, or an overbearing impact.

7.0 **Highways Issues**

7.1 The Highway Authority were consulted on the application and they raise no objections. It was stated that details of on-site parking and circulation through the site and details of how any water is to be prevented from escaping out onto the public highway should be provided. It was also stated that the applicant would need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins. Bin storage should not obstruct the private drive access, parking or turning provision. A bin dwell area should be provided clear of the public highway, private access, parking and turning for use on refuse collection days.

7.2 The Highway Authority recommended that a condition be imposed as follows;

Prior to any works commencing the applicant shall submit a scheme for prior written approval showing parking, turning, bin storage/dwell area and means to prevent water from escaping out onto the public highway. The details should include locations. The approved scheme shall be implemented in full prior to the proposed car wash facility being brought into use.

7.3 It is considered that the condition suggested by the Highways Authority is entirely necessary in terms of highway safety. Subject to the imposition of this condition, it is not considered that these plans would result in any adverse issues in terms highway safety, parking or congestion. It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality.

8.0 Environmental Health Issues

8.1 Environmental Health stated that the site is in an area where there is potential for land contamination and the applicant needs to ensure that the site is suitable for use and whether any potential contamination could leach into the drainage system. In response to these comments, it is not considered that a contaminated land assessment is required for a development whereby no building work would take place. It is considered that any issues relating to drainage are addressed by further consultee responses contained within this report.

8.2 Environmental Health stated that the site is near to residential properties, and recommended that the site is only used between the hours of 8am and 6pm Monday to Saturday, with no operations on a Sunday or Public Holiday. Correspondence took place with the applicant in relation to this recommendation, as it was highlighted by the applicant that operating on Sundays would be crucial to the business success. Although this is recognised, it is also considered that the operation of such a business throughout every weekend would potentially result in an adverse impact on neighbouring residential properties. It is recognised that the

noise generated by any machinery such as pressure hoses and valeting, along with noise resulting from the shutting of car doors and from the conversation of workers would be outside the confines of a building. As such, it is considered that the proposed use may result in further issues with noise than most of the other businesses nearby. As such, it is considered appropriate to restrict operating hours over weekends to ensure that any impact on neighbours is minimised. Following discussions with the applicant, it was agreed that opening hours over weekends should be restricted to between 8am and 1pm on Saturdays and Sundays. These restrictions would allow for the business to operate throughout the weekend, which the applicant has highlighted would be crucial, whilst ensuring that any impact on neighbouring residential properties would be minimised to a reasonable level.

9.0 Design Services

9.1 Design Services were consulted on this application and raised no objections. It was stated that part of the site is shown to be within Flood Zone 3 on the Environment Agency flood maps, however this type of commercial development may be classed as 'less vulnerable' under the NPPF and may be suitable for this location. Further to comments from Yorkshire Water, the runoff from the vehicle wash areas should not discharge to the surface water drainage system and must be discharged to the foul/combined system to prevent pollution of downstream watercourses. The runoff should also pass through an oil interceptor prior to discharge to the sewerage system.

10.0 Yorkshire Water

10.1 Yorkshire Water were consulted on this application and stated that if planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and YW infrastructure:

No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-

- a) evidence of existing positive drainage to public sewer and the current points of connection; and

- b) the means of storing and attenuating the restricting the surface water discharge to public sewer have been submitted to and approved by the Local Planning Authority . Furthermore, unless otherwise approved in writing by the Local Planning Authority , there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

(To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage)

Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil, petrol and grit interceptor /separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network .

(To prevent pollution of the aquatic environment and protect the public sewer network)

The drainage details submitted on drawing B1 undated are not currently acceptable to Yorkshire Water. They comment however that the matter can be controlled via condition if planning permission is granted. The following points should be addressed:-

- a) the submitted drawing should show foul and surface water drainage proposals both on and off site;
- b) evidence of existing impermeable areas positively draining to the public sewer is required to prove rate of discharge; and
- c) the submitted drawing should show surface water storage and the flow control rate.

10.2 It is considered necessary for the conditions suggested by Yorkshire Water to be imposed, in order to protect the local aquatic environment and Yorkshire Water infrastructure.

11.0 REPRESENTATIONS

11.1 As a result of neighbour notification, two letters of objection (Dignity Funerals Ltd and JBS Autos), a petition signed by thirteen individuals from Langtree Avenue objecting to the plans and a petition signed by twenty four individuals supporting the plans have been received.

11.2 The objections to this application raise concerns with regards to chemicals in the atmosphere, air pollution, noise pollution, ground pollution, damage to cars, flooding, traffic and highway safety.

11.3 ***In response to the objections raised, Environmental Health confirms no objections in relation to chemicals in the atmosphere, air pollution, or ground pollution. In terms of noise, it is considered that the imposition of a condition restricting the hours of operation is sufficient to mitigate any impact in terms of noise on neighbouring properties and this is debated in para 8.2 above. Any damage to cars would be a civil matter, and it is considered that any issues in relation to flood risk can be appropriately addressed through the imposition of conditions. In terms of traffic and highway safety, the Highway Authority were consulted on this application and they raised no objections subject to the imposition of conditions. It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality.***

12.0 HUMAN RIGHTS ACT 1998

12.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law

- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

12.2 It is considered that the recommendation is objective and in accordance with clearly established law.

12.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

13.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

13.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

13.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

13.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

14.0 **CONCLUSION**

- 14.1 The proposed plans are considered to be appropriate in principle, and would not have any adverse impact on neighbouring properties, highway safety or the surrounding area. It is not expected that the development would result in any adverse issues for neighbouring properties in terms of visual impact, overlooking, overshadowing, or an overbearing impact. There have been no objections in principle from Environmental Health, and it is considered appropriate to restrict the hours of operation in order to protect the residential amenity of neighbouring properties.
- 14.2 It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality. There have been no objections from the Highways Authority, subject to the imposition of conditions. Although the application site is located within Flood Zone 3, it is considered that conditions can be imposed to prevent flood risk and to protect the aquatic environment and Yorkshire Water infrastructure.
- 14.3 It is considered that the change of use of a site allocated for Economic Growth to a hand car wash is entirely appropriate in this location. It is not considered that these plans would result in any significant adverse issues in terms of noise disturbance. As such, the proposal accords with the requirements of policies CS1, CS2, CS3, CS7, CS8, CS13 and CS18 of the Core Strategy and the wider National Planning Policy Framework.

15.0 **RECOMMENDATION**

- 15.1 That the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

2. All external dimensions and elevational treatments shall be as shown on the approved plans, with the exception of any approved non material amendment.
3. Prior to the facility being brought into use, the applicant shall submit a scheme to the local authority for written approval showing parking, turning, bin storage/dwell area and means to prevent water from escaping out onto the public highway. The approved details shall be implemented in full prior to the proposed car wash facility being brought into use.
4. The hours of operation shall be between 08:00 and 18:00 on Monday to Fridays, between 08:00 and 13:00 on Saturdays and Sundays, with no operation on public holidays.
5. No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-
 - a) evidence of existing positive drainage to public sewer and the current points of connection; and
 - b) the means of storing and attenuating the restricting the surface water discharge to public sewer have been submitted to and approved by the Local Planning Authority.Furthermore, unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.
6. Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel , areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil, petrol and grit interceptor /separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network.

7. No development shall take place until amended drainage details have been submitted to the local authority for approval in writing. The submitted details shall show the following;
 - a) foul and surface water drainage proposals both on and off site;
 - b) evidence of existing impermeable areas positively draining to the public sewer to prove rate of discharge; and
 - c) surface water storage and the flow control rate.

Reasons for Conditions

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009. In the interests of residential amenities.
3. In the interests of highway safety
4. In the interests of the residential amenities of neighbouring properties
5. To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage
6. To prevent pollution of the aquatic environment and protect the public sewer network
7. In the interests of sustainable drainage

Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

2. Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Contravention of the provisions of section 111 is a criminal offence. Surface water run-off from areas of vehicular parking and/or hardstanding etc. must pass through an oil, petrol and grit interceptor/separator of adequate design before any discharge to the public sewer network. Roof water should not pass through the traditional 'stage' or full retention type of interceptor/separator. It is imperative, however that surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used is not discharged to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design before discharge to the public foul or combined sewer network. It is good drainage practice for any interceptor/separator to be located upstream of any on-site balancing, storage or other means of flow attenuation that may be required.
3. Trade effluent may only be discharged to sewer with the prior consent of Yorkshire Water. A trade effluent is any liquid, other than domestic sewage, which is wholly or partly produced in the course of any business. The Industrial Waste Manager should be contacted as soon as possible regarding the acceptability of any proposals which may involve a trade effluent (including vehicle washwater) or contaminated surface water discharge. The developer should consult with Yorkshire Water's Industrial Waste Section (telephone 0345 1242424).

4. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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Case Officer: Sarah Kay
Tel. No: (01246) 345786
Ctte Date: 30th October 2017

File No: CHE/17/00209/FUL
Plot No: 2/536

ITEM 2

PROPOSED - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES (SUNDAY SCHOOL BUILDING RETAINED); AND ERECTION OF A FOOD STORE AND CREATION OF NEW / ALTERATIONS TO EXISTING ACCESSES WITH ASSOCIATED PARKING, SERVICING AND LANDSCAPING (REVISED DETAILS RECEIVED ON 24/04/2017, 04/05/2017, 15/06/2017, 28/06/2017, 13/07/2017, 07/08/2017, 08/08/2017, 14/08/2017, 04/09/2017 AND 04/10/2017) AT PERRYS GROUP (FORD), CHATSWORTH ROAD, CHESTERFIELD, DERBYSHIRE, S40 2BJ FOR LIDL UK GMBH

Local Plan: Unallocated
Ward: Holmebrook

1.0 CONSULTATIONS

Local Highways Authority	Comments received 12/07/2017, 18/09/2017 and 18/10/2017 – see report
Strategic Planning Team	Comments received 01/06/2017 – see report
Environmental Services	Comments received 08/05/2017 and 20/07/2017 – see report
Design Services	Comments received 04/05/2017 and 18/10/2017 – see report
Economic Development	Comments received 18/04/2017 – see report
Environment Agency	Comments received 03/05/2017 and 26/05/2017 – see report
Yorkshire Water Services	Comments received 09/05/2017 and 02/06/2017 – see report

Derbyshire Constabulary	Comments received 26/04/2017 – see report
Lead Local Flood Authority	Comments received 03/05/2017 and 17/05/2017 – see report
Chesterfield Cycle Campaign	Comments received 22/04/2017 – see report
Coal Authority	Comments received 09/05/2017 – see report
Conservation Officer	Comments received 03/05/2017 – see report
Urban Design Officer	Comments received 17/05/2017 and 18/10/2017 – see report
Derbyshire Wildlife Trust	Comments received 15/05/2017 and 16/08/2017 – see report
DCC Development Control Archaeologist	Comments received 12/07/2017 and 22/08/2017 – see report
Ward Members	No comments received
Site Notice / Neighbours	Six letters of representation received

2.0 **THE SITE**

2.1 The application site is located on the junction of Factory Street and Chatsworth Road and comprises the Perrys Ford Dealership. The site covers an area of approximately 1.56 ha which is covered in hardstanding and used for the display/storage of cars. As well as the main car showroom buildings, there are also two additional, older structures, facing Chatsworth Road and Factory Street respectively. The River Hipper runs across the northern part of the site within a culvert.

- 2.2 The site lies immediately adjacent to, albeit outwith, the existing defined Chatsworth Road District Centre. There are no listed buildings or scheduled monuments within the site. Chatsworth Road Conservation Area is located directly to the north and the boundary includes the former Sunday School building (located within the site) and residential properties beyond.
- 2.3 The site is surrounded:
- To the north by Chatsworth Road and various commercial uses along this road, with residential properties beyond this;
 - To the east by both terraced residential properties and industrial premises;
 - To the south by Goytside Road and a small terrace of residential properties, with vacant former industrial land beyond this; and
 - To the west by Factory Street and vacant land associated with the Grade II* listed mill buildings at Walton Works beyond.
- 2.4 The site is accessible on foot from both the surrounding residential areas and other shops and services within the wider Chatsworth Road District Centre via a network of pedestrian footways. There are also pedestrian crossings at the junction of Chatsworth Road with Old Road, less than 100m to the west of the application site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/14/00835/EIA - Request for screening opinion - Proposed demolition of existing buildings and redevelopment of site (Retail A1, Restaurant A3-A5, 144 car parking spaces and 10 disabled spaces and landscaping. New access onto Factory Street and highway works on Chatsworth Road).
EIA not required 17/12/2014.
- 3.2 CHE/05/00590/ADV – Various Signs.
Approved 12/10/2005.
- 3.3 CHE/1198/0576 – Signage.
Approved 30/12/1998.
- 3.4 CHE/0297/0050 - New workshop used car sales office rapid fit unit existing showroom extension and associated car parking.
Approved 25/04/1997.

- 3.5 CHE/0394/0151 - Erection of illuminated signs.
Approved 10/05/1994.
- 3.6 CHE/0289/0088 - Permission for culvert the R. Hipper to east of existing showroom for use as car parking on land adjacent to 218 Chatsworth Road Brampton.
Approved 29/03/1989.
- 3.7 CHE/1187/0671 - Permission for erection of a new tyre storage warehouse at John Bull Tyres Factory Street, Chesterfield.
Approved 18/02/1988.
- 3.8 CHE/0686/0353 - Permission for environmental enhancement including car park with associated landscaping at land at junction of Factory Street and Chatsworth Road, Brampton.
Approved 22/07/1986.
- 3.9 CHE/0286/0101 - Display of illuminated canopy signs at Kennings Ltd, Chatsworth Road.
Approved 21/04/1986.

4.0 **THE PROPOSAL**

- 4.1 The subject planning application proposes the redevelopment of the Chatsworth Road site for the following:
- new Lidl store of new 2,472 sqm (gross)/1,424 sqm (net sales) store (replacing the exiting store at the junction of Foljambe Road with Chatsworth Road which would close immediately prior to this store opening);
 - 143 car parking spaces, including 9 disabled spaces, 2 electric vehicle charging points and 4 parent and child spaces;
 - new/improved vehicular accesses from Chatsworth Road and Factory Street;
 - improved amenity space for staff and 5 staff car parking spaces;
 - hard and soft landscaping, including areas of open space to soften the appearance of the new store; and
 - the retention of the former Sunday School building at the northern part of the site.

- 4.2 The proposals also include the retention of the existing former Sunday School building on the eastern side of the site, although the existing brick building to the western side would be demolished.
- 4.3 The new Lidl store would be a replacement for their existing facility at the junction of Chatsworth Road with Foljambe Road, which has a floorspace of 982 sqm gross/742 sqm net.
- 4.4 The application submission details that *'the existing store was built in 1997 and was one of the first generation of Lidl stores built in the UK. It is now small in comparison with the rest of the company's estate and is not able to provide the customer offer and experience which the company wishes to. It is also not capable of expansion, due to the physical constraints of the site, including its size and surrounding uses/road infrastructure. The proposed new store would be built to Lidl's very latest specification and would provide a more modern and spacious customer environment. Lidl's experience is that where a replacement store is provided, it does not necessarily result in an increase in customers, but existing customers' dwell time and spend does increase.*

Due to the limited levels of car parking it is not possible to extend on the current site due to the loss of these spaces. It is also not possible to extend the site as it is surrounding by roads on three of its boundaries and the Mecca bingo unit which borders the site to the west is not available.'

- 4.5 The application submission is supported by the following drawings/documents:

- Site Location Plan 1831 P401
- Proposed Site Plan 1831 P409 REV F
- Proposed Surfacing Plan 1831 P411 REV D
- Proposed Boundary Treatments Plan 1831 P412 REV D
- Landscape Details R-1972-2B
- Landscape Masterplan R-1972-1B
- Proposed Elevations 1831 P202
- Proposed Floorplans 1831 P102

- Design and Access Statement
- Planning and Retail Statement
- Ecology Report

- Geo-environmental Appraisal and Additional Ground Reports
- Flood Risk Assessment and Flood History
- Transport Assessment and Travel Plan
- Noise Impact Assessment
- Drainage Strategy (revised 04/05/2017)
- Heritage Statement
- Tree Survey
- Statement of Community Involvement
- Archaeological Desk-Based Assessment (submitted 28/06/2017 and updated 08/08/2017)
- Transport Assessment Addendum (submitted 01/08/2017)
- Bat Surveys (submitted 14/08/2017)
- S106 Pro-Rata Calculation - Highways

4.6 Throughout the application process there have been a number of revisions made to the scheme with details being received on the following dates – 24/04/2017, 04/05/2017, 15/06/2017, 28/06/2017, 13/07/2017, 07/08/2017, 08/08/2017, 14/08/2017, 04/09/2017 and 04/10/2017.

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

5.1.1 The site is situated in within the built settlement of the Holmebrook ward, adjacent to the designated Chatsworth Road District Centre and Chatsworth Road Conservation Area (the former Sunday School building is within the Conservation Area). The site is surrounded by a mix of commercial and residential uses.

5.1.2 Having regard to the nature of the application proposals policies CS1, CS2, CS3, CS4, CS7, CS8, CS9, CS13, CS15, CS16, CS18, CS19 and CS20 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply.

5.2 **Principle of Development**

5.2.1 The site is adjacent to the designated Chatsworth Road District Centre and is therefore considered 'edge of centre' in retail assessment terms. It should be noted that the draft Local Plan (2017) indicates a revised district centre boundary that would include a significant part of the site within the district centre boundary, but relatively little weight can be attached to this at this

stage in plan preparation (representations in support of this amendment have been submitted on behalf of the applicant).

- 5.2.2 The applicant has therefore submitted both a sequential and retail impact assessment with the application. I can confirm that the scope of these assessments was the subject of pre-application discussion and their scope and coverage is considered appropriate. Given that the store would be a replacement for the existing Lidl Store on West Bars, it is appropriate in this case to restrict the extent of the sequential search to the immediate locality.
- 5.2.3 The council's most up to date retail evidence dates from 2010 and is based on household survey data going back to 2008. Although an updated assessment is currently being prepared it has not yet been completed. The applicant has therefore helpfully supplemented the application with more up to date survey data. There is sufficient capacity in expenditure to support the additional floorspace without threatening the vitality or viability of any existing centres or currently planned investment. Although the council's updated evidence is still in preparation, from early indications there is no reason to think that this conclusion would change.
- 5.2.4 The principle of the proposed development therefore meets the requirements of policy CS1, CS2, CS15 and CS16 and the requirements of the sequential and impact tests set out in the NPPF.

5.3 **Design and Appearance Considerations (inc. Neighbouring Impact)**

- 5.3.1 The design and layout of the scheme incorporates two main access points into the site, with one via Chatsworth Road and other from Factory Street. One of the existing accesses from Chatsworth Road would be closed, the other altered to serve the new use. The existing 3-storey industrial building on Factory Street would be demolished to facilitate the access and drainage proposals on the west side of the site.
- 5.3.2 The proposed store is located on the eastern half of the site with the main front elevation in line with that of the retained Sunday School building immediately adjacent. Locating the store to the east achieves a more open frontage with Factory Street, whereas

an earlier iteration of the design indicated the store located on the west side of the site with the rear wall presented towards Factory Street.

- 5.3.3 The existing Anchor public house sits outside the site but next to the northwest boundary and would remain in-situ as part of the established streetscene of Factory Street.
- 5.3.4 The car park is laid out in front of the main elevation facing Chatsworth Road and between the west elevation and Factory Street.
- 5.3.5 The site lies within a known flood zone which necessitates the incorporation of a drainage designed to manage surface water flows and hold back and manage the release of water back into the River Hipper. The position of the existing culvert also restricts works along the frontage with Chatsworth Road. These factors have resulted in the inclusion of green margins around the perimeter of the site, as well as the incorporation of drainage swales directing surface water flows to a water storage basin (c. 1000m³) in the south east corner. Subject to their design and landscaping, these elements have the potential to provide a spacious setting to the proposed store.

Main frontage

- 5.3.6 The main store frontage comprises a large glazed elevation facing Chatsworth Road. This would achieve an active store front on the primary elevation and addressing the street appropriately. Furthermore, setting the store back slightly helps reveal the presence of the former Sunday School, which is currently partially obscured by the car sales building and the presence of densely parked vehicles, allowing this to be more readily appreciated.

Former Sunday School Building

- 5.3.7 This building makes an important contribution to the character and social history of this area and it is identified as a 'Building of Townscape Merit' in the Chatsworth Road Conservation Area. Its retention and future re-use is supported.
- 5.3.8 A modest 'plaza' space is shown in front of the former Sunday school, providing an enhanced setting to this distinctive building and this is combined with a pedestrian link from Chatsworth Road

to form an appealing route for visitors approaching the store on foot from the west.

Pedestrian movement

- 5.3.9 The layout makes provision for footpath connections into site from Chatsworth Road, Factory Street as well as the retained Sunday school building. In response to the initial comments made by the Council's Urban Design Officer (UDO) the site layout has been amended to include prioritisation of pedestrians accessing the site. The site layout now includes defined crossings (zebra or contrasting surfaces) to give priority to pedestrians navigating the car park to the access the store entrance.

Cycling provision

- 5.3.10 Cycle stands are indicated just off the north east and south west corners of the proposed store, with the second stand provision (to the SW) being a later addition to the site layout added following comments from the UDO.
- 5.3.11 It is noted that the Hipper Valley Trail runs along Goyt Side Road to the south of the application site and several consultees suggested an opportunity to provide an independent connection to the Trail where the site shares its southern boundary with Goyt Side Road. Notwithstanding this the applicant confirmed that the operational requirements of the engineered surface water swales prevented them from building over these features. Furthermore the two parcels of the land to the south of the site are currently the subject of separate planning applications (outline) for residential development.

Scale and Massing

- 5.3.12 The store design has a mono-pitch roof which is essentially low-rise but is considered to reflect the scale and height of nearby buildings in the vicinity, which are generally two-storeys in height.
- 5.3.13 The provision of a single large building does not generally reflect the finer grain of the existing surrounding townscape. However, the current car sales use and existing buildings represent a similar arrangement in respect of the larger scale and mass of a modern building within a generally open area occupied vehicles. In this respect the scale and massing of the store is not considered to be harmful to the context of the site.

Appearance

- 5.3.14 The proposed store design includes a large glazed frontage, white painted render panels to the ground floor and silver grey panelling to upper section of the building, silver fascia's and roof. A small amount of local Coal Measure sandstone is proposed to form a low plinth around the base of the store and is also used on the north-west corner adjacent to the former Sunday School, which represents a modest acknowledgement of local materials and distinctiveness. Chatsworth Road is characterised by a mixture of mainly red brick buildings and some painted render elevations, under dark slates and tiles.
- 5.3.15 Overall, the design of the building is a standard store type with some minor adaptation in respect of the incorporation of some local stone. A darker anthracite/slate grey colouring for the roof and panelling would be preferable relative to the context of the local roofscape. Nevertheless, given the existing silver clad showroom, the appearance of the proposed store represents contemporary design and an enhancement in terms of the appearance of the site and how it relates to both Chatsworth Road and Factory Street.

Boundary Treatments and Soft Landscaping

- 5.3.16 It is noted that some existing trees are shown to be retained around the periphery of the site, however, the site includes a number of exposed edges to Chatsworth Road, Factory Street, Goytside Road and the land to the east. As such, the interface created between the development and its surroundings are an important consideration in respect of achieving a sensitive assimilation of the development into its surroundings.
- 5.3.17 With the store set back into the site and surrounded by parking, the largely open boundaries would create weakly defined edges with the adjoining streets. This is particularly important on the Chatsworth Road frontage which has a large open aspect.
- 5.3.18 It is noted that the presence of the river Hipper culvert running alongside the Chatsworth Road frontage constrains the opportunities for tree planting in this location; however as recommended in the initial comments of the UDO the site layout plan was revisited to include additional tree planting along the centre line of the car park and at select positions around the car park surfacing area. It will be necessary to ensure that fastigiated

tree varieties with a vertical growing habit (e.g. Hornbeam – *Carpinus betulus* Frans fontaine variety or similar) are planted, as a clear stem height of 2m would also ensure clearance beneath the canopies for the convenience and safety of visitors and to maintain a good degree of visibility to the store for customers, so as to satisfy commercial requirements.

- 5.3.19 Boundary treatments to site perimeter are indicated in a separate plan. The retention and repair of existing brick walls is welcome, although a number of lengths of wall are under review, subject to a condition survey and any proposals for these will need to be clarified in due course. Existing security fencing is to be removed. New paladin fencing (weld mesh style) is intended to secure the eastern boundary and section of the perimeter around the houses to the south.
- 5.3.20 A low knee rail is proposed to the frontage with Chatsworth Road which adjoins the Conservation Area and along the edge of Factory Street and turning into Goytside Road. In this context boundaries along Chatsworth Road are generally characterised by low red brick walls and the UDO recommended that the knee fail along the Chatsworth Road frontage could be replaced by a low brick wall to harmonise the frontage with the character of this part of the Chatsworth Road Conservation Area.
- 5.3.21 Whilst both viability and / or the river Hipper culvert might prevent this from being a feasible option it is suggested that under the % For Art scheme (policy CS18) this option could be explored further.
- 5.3.22 The amenity/protection of the residential units to the south, close to the loading bay will be a consideration. No boundary treatments or acoustic fencing are currently indicated immediately adjacent to these neighbouring properties, however the Noise Impact Assessment (NIA) accompanying the application submission suggests that the noise from the delivery bay should be mitigated by the installation of a 2.4m high solid boundary fence adjacent to the delivery pod.
- 5.3.23 Overall it is considered that the design and appearance of the proposed development is acceptable, having regard to the context and provisions of policies CS2 and CS18 of the Core Strategy in relation to design and amenity. Furthermore in respect of

neighbouring amenity it is considered that the siting, scale and massing of the proposed store extensions are acceptable.

5.4 **Highways Issues**

5.4.1 Initially the application submission was accompanied by a Transport Assessment and a Framework Travel Plan which was prepared by EJSA Associates dated March 2017. The Local Highways Authority were invited to comment on the application submission and these accompanying documents, which subsequently lead to an exchange of correspondence and further meetings between the LPA, the Applicant and the LHA to discuss issues and queries arising from the submission.

5.4.2 Ongoing discussions culminated in the further submission of a Transport Assessment Supplement (dated July 2017), appending information for a highway contribution S106 Pro-Rata Mechanism and a further set of revised plans (with swept path analysis) and the LHA provided further formal comments on the details as follows:

'I refer to your e-mail request for comment on the additional/ revised information submitted in association with the above proposals following the latest highways consultation response to the application and the subsequent meeting at your offices.

The latest information relates to three main issues that have been raised i.e. Swept Path Analysis, Potential Cycle Link and Factory Street Junction.

I can confirm that the swept path analysis demonstrates an access and internal site layout considered suitable to accommodate the largest vehicles expected to frequently visit the site although the actual access layout will be subject to Constructional design Approval as a part of the Section 278 process.

Impact on the proposed flood mitigation measures is given as the reason for not creating a separate pedestrian/cycle link with Goyside Road and I trust that you will satisfy yourself that this is justified. Notwithstanding, it's considered unlikely that refusal of the proposals on the Grounds of lack of such link could be sustained.

As you will be aware, a need for mitigation works at the junction of Factory Street with Chatsworth Road have been identified as a part of the adjacent Walton Works proposals and it's considered reasonable for the Lidl development to contribute to these on a pro-rata basis. Details demonstrating the relevant predicted trip generations and a suggested overall scheme cost for introduction of an island within the junction to prevent traffic turning right out of Factory Street have been submitted in this respect. The predicted division of the costs is considered acceptable however, in the absence of a detailed design, it's difficult to determine what the actual layout or estimated costs are likely to be. In addition, having scanned through the rates given, it's suggested that these may be on the low side compared to what this Authority would use. However, it's appreciated that the applicant will wish to know the maximum level of funding they may be exposed to for securing under the Section 106 and it's suggested that use of an estimate based on the cost of introduction of a carriageway splitter island would be appropriate. I'm aware that this Authority installed such a feature last year in the Dronfield area for a sum in the region of £12,000 although this didn't include the costs for a Traffic Regulation Order to prohibit vehicle manoeuvres (right turns in this case). Therefore, on this basis, it's predicted total costs are more likely to be in the region of £15,000 giving a maximum contribution of £2637.36 (say (£2,650) for the proposed development. This sum should be secured for a period of 10 years post full opening of the development and index linked to the Construction Price Index (not Retail Price Index) to be available on demand.

It's noted that the revised Proposed Site Plan makes reference to closure of the redundant access with Chatsworth Road although there are likely to be similar requirements on Factory Street as well. It's suggested that details of the access works, both modifications and closures, may be made the subject of Condition with all Works being carried out by Agreement between the applicant and Highway Authority under Section 278 of the Highways Act 1980.

It would appear that the revisions to the access arrangements with Factory Street will require modifications to existing Traffic Regulation Orders funding for which should also be secured under the Section 106 and available on demand.

Comments with respect to the Framework Travel Plan have been provided previously and it's recommended that monitoring fees of £1,000 per annum (i.e. total of £5,000) are also secured under the Section 106.

Therefore, if you are minded to approve the proposals, highway recommendations for the Section 106 undertakings, Conditions and advisory Notes are as follows:-.

Recommended Highway Related Section 106 Undertakings:-

The following suggested main features should be considered for any Section 106 Agreement:-

- 1. Off-site maximum highway mitigation contribution of £2,650 for modification of the junction of Chatsworth Road with Factory Street.*
- 2. Maximum funding of £5000 for investigation into, and any subsequent implementation of, modifications to existing Traffic Regulation Orders.*
- 3. Trigger points for payment of contributions.*
- 4. Extent of network over which contributions can be applied.*
- 5. Indexation, draw-down arrangements and location of account.*
- 6. Timeframe over which funds will be available.*
- 7. Accumulation of contribution with other developer or public funds.*
- 8. Travel Plan monitoring contribution sum of £1,000 per annum for 5 years to a maximum of £5,000.*

Recommended Highway Related Conditions:-

- 1. Before any other operations are commenced detailed designs for the proposed vehicular and pedestrian access arrangements shall be submitted to the Local Planning Authority for written approval.*
- 2. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:*

- *Parking of vehicles of site operatives and visitors*
 - *routes for construction traffic*
 - *hours of operation*
 - *method of prevention of debris being carried onto highway*
 - *pedestrian and cyclist protection*
 - *proposed temporary traffic restrictions*
 - *arrangements for turning vehicles*
3. *Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/ modified in accordance with the approved designs, the subject of Condition 1 above, all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.*
 4. *All existing vehicular and pedestrian accesses to the existing highway made redundant as a result of the proposed development shall be permanently closed with a physical barrier and the footway reinstated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.*
 5. *No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of staff/ customers/ service and delivery vehicles (including secure/ covered cycle parking), located, designed, laid out and constructed all in accordance with a scheme first submitted to and agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.*
 6. *The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, each phase of development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the*

occupation of the development hereby permitted and shall thereafter be retained for use at all times.

- 7. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall be locked in an open position whilst ever any operations are ongoing on site. Any gates shall also open inwards only, unless otherwise agreed in writing by the Local Planning Authority.*
- 8. No part of the development shall be brought into use until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.*
- 9. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.*
- 10. No building or use hereby permitted shall be occupied or the use commenced until a Framework Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. Subsequently with each Reserved Matters application a Travel Plan including targets, relating to each phase (or sub-phase as may be agreed in writing with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plans shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.'*

5.4.3

Having regard to the dialogue and final comments of the LHA detailed above the application proposals do properly consider and assess the traffic impacts arising from the scale and nature of the development proposals. As a result of these assessments it can be concluded that the development proposals incorporate appropriate means of access points to both Chatsworth Road and

Factory Street. The design and geometry of both proposed access points have been engineered to meet the operational requirements of the proposed development to the satisfaction of the LHA, having regard to highway safety. The level of on-site parking provision is considered to be appropriate to the scale of the development and the edge of centre location on Chatsworth Road (where there are easily accessible public transport links and footpath / cycle route connections). Looking specifically at traffic impacts it is acknowledged that Chatsworth Road does suffer from congestion issues at peak hours. With this in mind as part of the planning application process all major applications are required to quantify and assess the potential traffic impacts arising from the development proposals and the Transport Assessment work undertaken has been agreed by the LHA in this regard. The suggested conditions detailed and the S106 agreement contributions to potential highway improvements are considered to be necessary and appropriate having regard to the provisions of policy CS20 of the Core Strategy and the wider provisions of the NPPF.

5.5 **Flood Risk and Drainage**

- 5.5.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site is affected by flood risk zone 3 and therefore the site has a high probability of fluvial flooding and is also adversely affected by surface water flooding. In respect of drainage, the application details that the development is to be connected to existing mains drain for foul and surface water will be directed to an engineered sustainable drainage solution.
- 5.5.2 The application is accompanied by a Drainage Strategy and Flood Risk Assessment which have both been prepared by Eastwood & Partners (which were revised on 04/05/2017) and have been passed to the **Lead Local Flood Authority (LLFA), Design Services (Drainage) team (DS team)** and **Yorkshire Water Services (YWS)** for review in the context of policy CS7 of the Core Strategy.

5.5.3 The LLFA acknowledged the proposals intention to discharge surface water through the combined use of detention basin and swales at a rate of 30 l/s using above and below ground storage. The LLFA confirmed that they had no objections in principle to the proposals however they commented that the use of below ground storage was not recognised as a ‘sustainable drainage’ and therefore they advise that they would seek an upsize of the storage volume to allow for a greenfield run off rate to be achieved. On this basis the LLFA have advised (and reiterated in their 2nd consultee response) that the following condition should be imposed on any decision issued:

No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

5.5.4 YWS provided an initial response raising no objections to the scheme, acknowledging the presence of a public sewer which crosses the site that would need to be protected by condition easement. In their secondary response they confirmed that the FRA and Drainage Strategy were both acceptable to them.

5.5.5 The DS Team also provided an initial response to the application submission raising some queries which generated the submission of the revised FRA and Drainage Strategy. Having reviewed the revised documents the following comments were made:

The site may still to be at risk of flooding during extreme events, however as described in the FRA, the risk may be permissible as a less vulnerable development under the NPPF. The development also includes flood storage compensation so there is no overall loss in flood storage volume.

Our only query would be whether any assessment has been carried out on the piped network for the surface water runoff. I understand the tank has been sized to accommodate flows, but no calculations have been included for the conveyance of flows into and from the tank. Also the proposed building is to be discharged

to the River Hipper via an existing 150mm outfall pipe. Has any analysis been carried out to determine that this has sufficient capacity to discharge flow and prevent flooding on events up to 100year + climate change events as the building has substantial area.

- 5.5.6 Having regard to the outstanding queries of the both the LLFA and DS team it is considered that an appropriate planning can be imposed which requires the submission of further detailed drainage designs to satisfy the queries outstanding. Both consultees are agreeable in principle to the drainage strategy being proposed, but seek further technical detail on the system to be fully satisfied. This can be dealt with by pre-commencement condition in accordance with policy CS7 of the Core Strategy.

5.6 **Land Condition / Contamination / Noise**

- 5.6.1 The site the subject of the application comprises of hard surfaced / previously developed land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.

- 5.6.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission and provided the following response:

'The Coal Authority does not consider that the supporting Coal Mining Risk Assessment adequately demonstrates that the site is safe and stable for the proposed development with reference to past shallow coal mining activity. We therefore consider that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these

should also be conditioned to be undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;*
- * The undertaking of that scheme of intrusive site investigations;*
- * The submission of a report of findings arising from the intrusive site investigations, including the results of any gas monitoring;*
- * The submission of a scheme of remedial works for approval; and*
- * The implementation of those remedial works.*

The Coal Authority has no objection to the proposed development subject to the imposition of a condition to secure the above which is required to ensure that the applicant satisfactorily demonstrates that the application site is, or can be made, safe and stable for the proposed development, in accordance with the requirements of the NPPF.'

5.6.3 Having regard to the comments detailed above from the CA appropriate conditions can be imposed to this effect, if permission is granted, to ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of noise and land condition.

5.6.4 In addition to the comments of the CA, the Council's **Environmental Health Officer** (EHO) also provided the following response:

I have the following comments to make (should planning consent be granted):

Demolition Phase

- 1. Demolition shall be carried out in a manner that does not generate excessive noise and/or dust.*

2. *The hours of demolition shall be limited to 8:30am to 5:00pm Monday to Friday and 9:30am to 4:00pm Saturday. Demolition shall not take place on a Sunday or Public Holiday.*
3. *The demolition contractor will not be permitted to burn demolition materials as a means of disposal.*

Land Contamination

1. *I note that the application is supported by desk study and site investigation reports. The author of these reports refers to conversations with 'Chesterfield Borough Council's contaminated land officer'; I do not have any record of speaking/corresponding with the author of this report.*
2. *If permission is granted, I recommend that additional site investigation work is carried out after the demolition process is complete.*
3. *If a site investigation is carried out and remediation is necessary, the method of remediation must be agreed by Chesterfield Borough Council.*
4. *All remedial work shall be supported by a validation/verification report.*
5. *All reports shall be submitted and approved in writing prior to commencement of development.*

Lighting

1. *Given the close proximity of residential housing to this site, I recommend that the developer submit a lighting plan showing the locations of all proposed external lighting.*
2. *All lighting shall be positioned and designed as to not cause overspill off site and must not cause glare in nearby residential properties.*
3. *Where possible, external lighting shall be fitted with a timer device; the operating times must be agreed in writing with Chesterfield Borough Council.*
4. *The lighting scheme shall be submitted and approved in writing prior to commencement of development.*

Noise

1. *The hours of construction shall be limited to 8:30am to 5:00pm Monday to Friday and 9:30am to 4:00pm Saturday. Construction shall not take place on a Sunday or Public Holiday.*
2. *I note that the application is supported with a 'noise impact assessment' and can see from the design layout that the location of the proposed delivery bay is situated near to the residential occupiers of properties on Goytside Road. For this reason, I recommend that deliveries to the store (i.e. food produce and other retail items) shall only take place between 7:30am and 7:30pm Monday to Friday and between 8:00am and 5:0pm on a Saturday. Deliveries shall not take place on a Sunday or Public Holiday.*

2nd Response - you will see from my attached email (original comments dated 8th May) that I raised concerns about the proposed store wishing to have deliveries 24 hours a day. I have since spoken with the noise consultant and it has been suggested that should planning consent be granted, deliveries could be permitted 24 hours but only on a temporary basis (i.e. for 12 months) to assess whether or not there are any noise complaints received. The applicant has further recommended that acoustic fencing will be installed on site and this should be set as a condition should planning consent be granted.

- 5.6.5 In respect of the comments of the EHO detailed above, further discussions were had regarding the proposed delivery times of the store. These were considered in the context of delivery hours which had been permitted at other food store in the Borough having particular regard to those whom shared a boundary with residential properties (such as Morrisons and Lidl Whittington Moor).
- 5.6.6 Whilst it was accepted that the EHO (in their 2nd response) was prepared to accept 24hr deliveries for a 12month period to monitor the impacts; it was considered that this was not reasonable. Benchmarked against other sites (Morrison's 5.00am – 11.00pm Mon to Sun; and Lidl Whitt Moor 6.00am – 11.00pm Mon – Sun) the applicants were asked what delivery hours they would require and they responded on 01/09/2017 advising that *Monday – Saturday 7.00am – 11.00pm; and Sunday / Bank Holidays 8.00am*

– 5.00pm were required. On the basis that these hours were considered to fall within the parameters of acceptable hours with similar neighbouring relationships to residential properties, these hours were considered to be acceptable.

5.6.7 Having regard to all other requirements sought by the EHO in their 1st response it is considered that these provisions can be written into appropriate planning conditions under policy CS8 of the Core Strategy.

5.7 **Ecology and Trees**

5.7.1 The site the subject of the application is predominantly hard surfaced and is subsequently cleared of any vegetation with peripheral trees being the only soft landscaped features which predominantly align the River Hipper (which is culverted underneath the application site). There are a number of buildings on the site which are to be demolished as part of the application proposals which could have a potential ecological value.

5.7.2 The original application submission was accompanied by a Tree Survey and Ecology Survey which were reviewed by Derbyshire Wildlife Trust under their service level agreement with the LPA. As a result of their comments further Bat Surveys were undertaken and submitted for consideration alongside the application on 14/08/2017.

5.7.3 DWT confirmed that in respect of the Bat Survey results, *'we have considered the relevant document supplied which details the results of a suite of nocturnal bat surveys (RPS via email 14th August 2017) undertaken on the buildings to be affected by the development. RSP undertook the surveys in June of 2017 and the results showed that the building did not contain an active bat roost at the time of the surveys. The survey work has been undertaken by an ecologist who holds a bat survey license. DWT are happy with these findings and the recommendations also detailed within the report. No further surveys are recommended with regards to bats'*.

5.7.4 In respect of the comments made it is clear that the requirements of DWT were met through the survey work undertaken and no further requirements for ecological enhancement / mitigation were mentioned in their secondary consultee response. Notwithstanding this as a major development proposal the scheme will be expected to secure a net gain in green infrastructure and ecological enhancement under the provisions of policy CS9 of the Core Strategy and it is considered that the soft landscaping proposals which have been detailed alongside the application proposals are sufficient in this respect. It is noted that the recommendation of the RPS Bat Survey suggests that bat boxes could be positioned on the southern aspect of the retained Sunday School building and the adjacent trees where bat foraging activity was recorded. Under the provisions of policy CS9 it is considered that these measures should be conditioned.

5.8 Heritage and Archaeology

5.8.1 As detailed in the application description the site the subject of the application lies in part in and in part adjacent to the Chatsworth Road Conservation Area; furthermore the site also lies along the industrial corridor of Chatsworth Road where there is potential for below ground archaeological interest to exist.

5.8.2 In the context of the above the application submission as accompanied by a Heritage Statement and latterly by an Archaeological Desk-Based Assessment (submitted 28/06/2017 and updated 08/08/2017) which were subject to review by the Council's **Conservation Officer (CO)** and the **DCC Development Control Archaeologist (DCA)**.

5.8.3 In summary the CO acknowledged the content of the Heritage Statement as a robust and comprehensive document; supporting the principle approach of the development proposals having regard to the setting of the nearby listed buildings, conservation area and the retention of the Sunday School building within the site. He commented, *“the proposed design of the supermarket building is, in common with this supermarket operator, contemporary and functional, thus the materials palette includes full height glazing, rendered walls and metal cladding (albeit with some sandstone details on plinths and pillars); and because of the varied types of development along Chatsworth Road, a modern and minimal building design of this type was not inappropriate. Moreover the*

overall landscaping represents an improvement over the existing site as the proposed swales and a water detention basin would replace hard concrete with softer natural greenery. There is also an emphasis on retaining existing boundary trees and planting new boundary trees which again I would support given the positive contribution trees make to conservation areas’.

5.8.4 In his original comments the CO made reference to the lack of tree planting within the car parking area as a weakness in the design of the scheme; and this was amended amongst other alterations to the scheme to see the inclusion in 7 no. trees down the central line of the car parking area. The CO asked for clarity of the proposed boundary treatment details to the Factory Street frontage and these were also amended in subsequent revisions which post-dated the CO’s original comments. A timber knee rail to the Factory Street frontage is now shown which secures an appropriate treatment.

5.8.5 In respect of archaeology the applicant has worked proactively throughout the application process with the DCA to provide an Archaeological Desk-Based Assessment of the site. The DCA has confirmed that the Assessment submitted is (as revised) an appropriate assessment and that they are satisfied the conclusions reached therein are acceptable. No further investigation is suggested by the DCA in their last planning consultation response.

5.8.6 Overall therefore in the context of policy CS19 of the Core Strategy and para. 128 – 129 of the NPPF it is considered that the proposals appropriately appraise the potential impact of the development upon designated and potential below ground heritage assets; and the overall design responds to these constraints in a positive and acceptable manner.

5.9 **Other Considerations**

5.9.1 **Community Infrastructure Levy (CIL)**

Having regard to the nature of the application proposals the development comprises the creation of new retail floorspace and the development is therefore CIL Liable.

The site the subject of the application lies within the single retail CIL zone and therefore the CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

	New GIF (sqm)	Calculation	Total
New retail floor space	2125sqm		
Buildings to be demolished	1734sqm		
CIL Liable GIF sqm	391sqm	391 x £80 (index linked)	£31,280
Total			£31,280

5.9.2 S106 / Planning Obligations

The application proposals are categorised as a major development proposal and in this context relevant policies of the Core Strategy have been considered having regard to any triggered policy requirements concerning enhancement or improvements to local infrastructure

In this context policy CS18 of the Core Strategy sets the Council's requirements for its percent for art initiative and therefore discussions have been held with the applicant to advise that a contribution of up to 1% of the overall development costs will need to be set aside for a public piece of artwork. This requirement will need to be secured under the provisions of a S106 agreement.

Under the provisions of policy CS13 of the Core Strategy the Council also seek to secure a local labour and supply chain provision and with this regard the Economic Development team have responded to the application submission seeking the imposition of this clause by appropriate planning condition.

Finally the S106 agreement will also need to cover the aspects of a pro rata highway contribution and the future management and maintenance of the on site SuDS system; as discussed in sections 5.4 and 5.5 above.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 26/04/2017; by advertisement placed in the local press on 27/04/2017; and by neighbour notification letters sent on 18/04/2017.

6.2 As a result of the applications publicity there have been six letters of representation received as follows:

204A Chatsworth Road

I cannot describe about this demolition because I am 82 years old and for me a difficult thing. I have headache all the time.

Officer Response: Noted

A Local Resident (3 no. emails)

13/04/2017 – I agree with the Design & Access Statement and support the redevelopment of this Brownfield land on a main route into the town centre.

I support the retention of the Sunday School building and like the proposed store's appearance.

I feel the proposed development is in-line with the 'Land to the south of Chatsworth Road' planning guide.

I also feel that the store represents a great improvement on the existing Chatsworth Road store nearer the town centre; the Whittington Moor store is far bigger and has a larger product range.

24/04/2017 – Further to my original response, I agree with the Transition Chesterfield advisory comments relating to the proposed store and opening up the River Hipper corridor.

I agree that a full masterplan is required for the land south of Chatsworth Road and that the existing Local Development Framework guidelines require updating.

I feel it is important that developments on both sides of Factory Street are considered together.

04/05/2017 – I agree with the Police Designing Out Crime Officer and the Conservation Officer Comments.

I feel it is important that the service areas at the rear are fenced / gated off and that the car park should be closed outside store opening hours, as well as increased CCTV coverage.

I am aware there have been crime / ASB issues in the Chatsworth Road / Walton Works area and feel it is important these issues are

addressed through redevelopment of the currently vacant land & buildings on both sides of Factory Street.

Officer Response: Noted

221 Chatsworth Road (Booze Express)

I object to this application above for the development of a Lidl store for many reasons, having looked and examined at all the plans off the proposed development on the Chesterfield Borough council website.

This proposal will have a negative and detrimental impact on my business, local business and local residents and tourists who pass through Chatsworth Road itself.

As you may be aware there is already a Lidl store situated at the bottom off Chatsworth Road, with a parking facility, so why is it necessary to move literally a five minute walk from its original store?

The answer is obvious, making more profit, and a big store like Lidl will seriously impact on my trade being a convenience store, which I have only bought a year and a half ago. Being a small business owner struggling day to day to make a living this would be the end for my business overall as I cannot compete with a Lidl, which literally is on my doorstep.

I realise I am only one person against a huge corporation, and my objection may not have any affect or impact on this application, but I feel I have to object as me and my family are under threat from such a large store opening, which in time once developed will lead to the closure off my business.

Data from the Department of Trade and Industry (DTI) shows that the UK has lost 50 Independent shops a week over the last decade, due to the opening off large supermarkets, and this will impact other business locally trading on or near Chatsworth Road, and not forgetting there is already a Morrison's Store, five minutes away from the proposed development. So the customers, locals and the public have options to shop already, and it seems unnecessary to move Lidl from its existing site.

The building itself will be visually overbearing, and may reduce the 'right off light ' on my building due to the size off the construction and the distance from my business to the development as well as the not keeping with the neighbouring properties and businesses. Also I will have 'no right to a view' and will be looking at this huge building right in front of me, which will be an eye sore!

The visual impact, effect on the character of the neighbourhood, and possible noise- disturbance may all create negative impacts on the area, As well as heavy pollution from vehicles coming in and out of Lidl and heavy traffic causing chaos on this hectic road, which already causes problems for customers and the general public, Chatsworth Road itself is very busy and traffic build up at peak times is horrendous.

This development will add and cause huge disruption to one of the busiest roads in Chesterfield, The Highways agency have already stated the development would adversely affect the highway safety and inconvenience road users and the public.

Having spoken to many customers and business owners from the area, not many are keen on this development at all, and me and my family are personally devastated from this proposed development and I am hoping the council will refuse the planning application permission, small businesses are the back bone to the community, and this proposal will destroy this value which is special and important to people.

Officer Response: Business competition is not a material planning consideration. The visual / amenity comments and highway impact comments of the objector are noted. These issues are considered in more detail in sections 5.3 and 5.4 above.

Transition Chesterfield

Transition Chesterfield is a local community group aiming to make Chesterfield more resilient and sustainable. We want to create positive local solutions to the twin challenges of 'peak oil' and climate change, and make our town a better place to live.

We have concerns about some aspects of the proposed new Lidl store on Chatsworth Road relating to sustainable travel and sustainable design, outlined in detail below, which we consider do not accord with the Borough's Core Strategy policies.

Sustainable Travel

Transition Chesterfield supports the improvement of walking and cycling infrastructure within the borough together with other measures to encourage more people in Chesterfield to walk or cycle to improve their health, reduce dependency on cars (and oil) and improve the quality of life.

The current design fails to accord with Core Strategy Policy CS2 (principles for sustainable location) and Core Strategy CS20

(Influencing the Demand for Travel). This latter policy requires applicants to demonstrate (a) Prioritisation of pedestrian and cycle access to and within the site; and b) Protection of, or improvements to the strategic pedestrian and cycle network. While we agree that the application site is potentially in a sustainable location (though less sustainable than the current location a short walking distance from the town centre), the current design fails to prioritise pedestrian and cycling access, and will detrimentally affect the strategic pedestrian and cycle network by adding more traffic to Factory St and Goytside St. While we welcome the provision of two electric vehicle charging points on the site, the design overall is completely car-centred and aimed at prioritising car-travel to the site. Rather than encouraging sustainable access the current design appears to be doing the opposite. The Design and Access statement listed opportunities includes “Provide short stay car parking within a central location along Chatsworth Road which also serves visitors to existing shops and helps create linked trips.” This suggests that additional carparking is being provided simply to encourage more people to use their car for shopping along Chatsworth Rd, rather than encouraging more people to walk/cycle and take the bus.

Lack of provision for cyclists

The Travel Plan and the Transport Assessment both inaccurately report that “There are no special cycle facilities in the Highway network in the area”. This worryingly displays a lack of local knowledge and failure to read the Council’s Local Plan which refers to the strategic cycle network in paragraph 5.90 and clearly shows the strategic cycle network in Diagram 7. Even more worrying is that this issue was raised at the public consultation and included in the Statement of Community Involvement, raising the question what is the point of a Statement of Community Involvement if you are going to ignore the information provided? “The site is close to the Hipper Valley Route, concern increased traffic on Factory Street and Goytside Street could be detrimental to cyclists.” “Cycle provision (parking and paths) do not seem to be evident.” “What about bike provision – it isn’t mentioned, only car parking spaces.”

(public comments at consultation)

While the developer added a cycling parking/shelter in response to the consultation this should have been done as a matter of course, particularly given the protracted problems of installing cycle

parking at the current Lidl. The cycle parking should directly link with the Hipper Valley trail, either via Factory St or a dedicated direct path through the site.

Additional traffic on Factory St/Goytside St

The developer does not address concerns raised in the consultation about the increased vehicular traffic along the Hipper Valley cycle route. Highways Department have already noted concerns about the traffic problems on Chatsworth Rd and “adding traffic to an already problematic route” (Statement of Community Involvement). The difficulties of traffic turning right into or out of the main access on Chatsworth Rd will inevitably mean many vehicles will use Factory St/Goytside St to avoid Chatsworth Rd, adding significant levels of traffic onto Goytside Rd, currently a quiet back-street used by many pedestrians and cyclists and part of the strategic cycle network.

Lack of provision for pedestrians

The Travel Plan talks about the health benefits and cost savings associated with pedestrian/cycling friendly environment for visitors and staff but the current design is far from that, and a disappointingly car-centred design. Simply stating that pedestrian connectivity to the site is good, while ignoring opportunities to improve connectivity through the site, is simply not good enough. The layout plan shows a pedestrian route into the site from Chatsworth Rd. However this is only useful for pedestrians coming from the East. Anyone walking from the West will have to contend with crossing a very wide access on Chatsworth Road, and will inevitably take the most direct route to the entrance across the carpark. There are no internal zebra crossings, and no priority or tactile paving to lead pedestrians safely through the rest of the carpark. The current pedestrian crossing is 100m away which is too far for the majority of pedestrians coming from the direction of town, and requires pedestrians to cross the road twice in effect. This is not acceptable for such a major new development. The Statement of Community Involvement also mentions public concerns about pedestrian access and requests for a pedestrian crossing outside the site. This should be a bare minimum given the busy nature of Chatsworth Road, difficulties of crossing the road and the fact that this development will be adding to the traffic congestion.

Riverside walking/cycling path

The recent approved planning application for Walton Works includes a walking/cycling route along the River Hipper. In our response to that application we supported this and suggested: “There is an unprecedented opportunity to open the riverside up as part of this redevelopment which should be continued all the way through to town, creating a safe, off-road and very pleasant walking and cycling route for all to enjoy. The riverside path only goes as far as Factory St. It is not clear what will happen beyond this point but we strongly recommend that there is a shared walking/cycling route along the river all the way to Factory St and that this is continued once other planning applications come forward for the sites to the East of Factory St.”

Without a strategic masterplan for this whole area we are concerned that developments such as this one will ignore the bigger picture and opportunity to improve the wider area for the benefit of the whole town. Although the river is currently culverted under much of the site there should be a walking/cycling path through the site which links up with either end of the river so that it can be continued from Walton Works and eventually all the way to Queen’s Park.

From the CGI image of the new development there appears to be ample space along the grassed areas following the line of the culverted river, for a walking/cycling path that will link up with the proposed path in the Walton Works development. This walking/cycling access could be connected with a path to the swale and grassed areas which would provide additional public amenity space in this densely developed area.

Travel Plan

While we support many of the recommendations made in the Travel Plan, given Lidl’s past performance we are highly sceptical that these will be implemented. We recommend that the whole plan form part of the planning conditions to ensure that these are properly implemented.

Sustainable Design

In Brussels Lidl has opened its first carbon neutral store which is 40% more energy efficient and includes solar panels and rainwater harvesting, and more and is a pilot for its sustainable development strategy.

For a recent planning application for a Lidl store in Hampshire it was stated that Lidl stores achieve BREEAM Very Good as standard and the following sustainability measures were expected to be met:

- designing to maximise energy efficiency and to design out the need for energy use, including by the full use of passive heating and cooling systems where practical;
- connection to existing combined heat and power (CHP) and District Heating/Cooling networks, or a contribution to their future development;
- use of renewable energy technologies to produce required energy on-site;
- making use of Allowable Solutions to deal with any remaining CO2 emissions.

Energy efficiency and renewable energy

However, the Design and Access statement for this current application make no mention of BREEAM. Although the design principles include “Promoting high levels of sustainability and minimising the carbon footprint of the development, utilising energy conservation and efficiency methods where feasible and viable” there are no details of what measures are proposed for energy efficiency or renewable energy provision. It would be expected that installing solar PV panels on the roof would be in Lidl’s own interest but if these are planned, there is no mention of them in the application. In accordance with Core Strategy policy CS5 the development should be designed for future connection to a community heating network and developments along the river should investigate the feasibility of using small scale hydro power. Elsewhere in Chesterfield and the rest of the UK zero energy or even net-positive energy developments are being built, while Lidl is constructing carbon neutral developments in Belgium. We would expect to see a similar level of ambition for many more of its stores.

To meet our concerns on sustainable travel and design we recommend the following planning conditions are imposed on the developer:

Recommended Planning Conditions on sustainable travel

- Provision of a dedicated cycle path linking cycle parking with Hipper Valley Trail and/or Factory St
- Provision of a riverside walking/cycling path along the route of the culverted river to connect with the riverside walking/cycling path planned for Walton Works
- Provision of a new pedestrian crossing across Chatsworth Rd adjacent to the store
- Reduction in width of access on Chatsworth Rd to enable pedestrians walking into town to cross more safely
- Provision of coloured or tactile paving marking pedestrian routes and zebra crossings within the site to enable customers to walk through the carpark safely
- Inclusion of the recommendations of the Travel Plan as planning conditions

Recommended Planning Conditions on Sustainable Design

- The development should achieve BREEAM Very Good with design to maximise energy efficiency and use of renewable energy technologies
- A contribution to the future development of a Combined Heat and Power and District Heating/Cooling network.

Unless all these conditions are met, or a good reason provided why they cannot be met, we cannot support the current application.

6.3

Officer Response: The detailed comments of the Transition Chesterfield group have been considered alongside those of other statutory and non-statutory consultees. Whilst it is noted that the TC representation suggests a list of their own recommended planning conditions, their comments and requirements must be considered against the requirements of the development plan, the requirements of other consultees and the respective constraints of the site. The LPA must also be able to demonstrate that any requirements placed upon the developer are reasonable and proportionate.

Since the receipt of the comments from TC, the site layout plan has been amended to ensure that there is cycle stand provision commensurate with the scale and nature of the development proposals. These changes were made alongside reconfiguration of the car park layout to provide legibility and pedestrian prioritised routes into the site from the Chatsworth

Road and Factory Street access points. As detailed in section 5.3 above the ability to provide a dedicated connection to Goyt Side Road and the Hipper Valley Trail route has been considered and disregarded due to engineering constraints for the surface water proposals.

The benefits of a providing a river side walking / cycle route along the culverted section of the river are questioned on the basis the river is not accessible and there is currently no defined design / alignment of the route through the Walton Works site adjacent. It is considered that the improvements made to the site layout plan and the connections proposed as part of the scheme are an acceptable compromise given the constraints of the site.

It is understood that the width of the Chatsworth Road access is dictated by an engineered swept path analysis and this is to allow service vehicles to access the site at this point; therefore the access width cannot be reduced. Dropped kerbs and tactile paving to allow pedestrians to cross along Chatsworth Road will be necessary and will be dictated by the final design of the junction through S278 / S38 works.

The sceptical response to the applicants Travel Plan details by TC cannot be substantiated and standard planning conditions will be imposed on any decision made to requires its implementation and monitoring.

The comment regarding the achievement of a BREEAM Very Good design rating are noted.

There is no requirement for the applicant to provide any contribution to a combined heat and power / district heating system.

7.0 HUMAN RIGHTS ACT 1998

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary

- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUSION**

- 9.1 The proposed development is considered to be appropriately sited, detailed and designed such that the development proposals comply with the provisions of policies CS1, CS2, CS4, CS15 and CS16 of the Chesterfield Local Plan: Core Strategy 2011 – 2031.
- 9.2 Planning conditions have been recommended to address any outstanding matters and ensure compliance with policies CS7, CS8, CS9, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and therefore the application proposals are considered acceptable.

10.0 **RECOMMENDATION**

- 10.1 That a CIL Liability Notice be issued in accordance with section 5.9.1 above for the new retail floorspace.
- 10.2 That a S106 agreement be negotiated (as per section 5.9.2 above) to cover:
- Percent for Art (up to 1% of development costs);
 - Appointment of a Management Company to manage and maintain any drainage infrastructure and highways which are not adopted; and
 - Highway Contributions consisting of:
 - *Off-site maximum highway mitigation contribution of £2,650 for modification of the junction of Chatsworth Road with Factory Street.*
 - *Maximum funding of £5000 for investigation into, and any subsequent implementation of, modifications to existing Traffic Regulation Orders.*
 - *Trigger points for payment of contributions.*
 - *Extent of network over which contributions can be applied.*
 - *Indexation, draw-down arrangements and location of account.*
 - *Timeframe over which funds will be available.*
 - *Accumulation of contribution with other developer or public funds.*
 - *Travel Plan monitoring contribution sum of £1,000 per annum for 5 years to a maximum of £5,000.*

10.3

That the application be **GRANTED** subject to the following conditions /notes:

Time Limit etc

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Site Location Plan 1831 P401
- Proposed Site Plan 1831 P409 REV F
- Proposed Surfacing Plan 1831 P411 REV D
- Proposed Boundary Treatments Plan 1831 P412 REV D
- Landscape Details R-1972-2B
- Landscape Masterplan R-1972-1B
- Proposed Elevations 1831 P202
- Proposed Floorplans 1831 P102
- Design and Access Statement
- Planning and Retail Statement
- Ecology Report
- Geo-environmental Appraisal and Additional Ground Reports
- Flood Risk Assessment and Flood History
- Transport Assessment and Travel Plan
- Noise Impact Assessment
- Drainage Strategy (revised 04/05/2017)
- Heritage Statement
- Tree Survey
- Statement of Community Involvement
- Archaeological Desk-Based Assessment (submitted 28/06/2017 and updated 08/08/2017)
- Transport Assessment Addendum (submitted 01/08/2017)
- Bat Surveys (submitted 14/08/2017)
- S106 Pro-Rata Calculation – Highways

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

Drainage

03. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted.

04. No building or other obstruction including landscape features shall be located over or within 3.0 (three) metres either side of the centre line of the 100mm / 150mm / 225mm / 450mm / 525mm sewers i.e. a protected strip width of (6) metres, that traverse the site, and no building or other obstruction including landscape features shall be located over or within 4.0 (four) metres either side of the centre line of the 450mm sewer i.e. a protected strip width of (8) metres. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.

Reason - In order to allow sufficient access for maintenance and repair work at all times.

05. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason - To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network.

06. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason - In the interest of satisfactory drainage.

Site Investigations

07. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues and contamination on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the remediation / stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Reason - To fully establish the presence and / or otherwise of any contamination and / or coal mining legacy and to ensure that site is remediated, if necessary, to an appropriate standard prior to any other works taking place on site.

Ecology / Lighting

08. Prior to the installation of any external lighting a detailed lighting strategy shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.
This is to ensure that a sensitive lighting strategy is designed in line with guidance within Paragraph 125 of the NPPF.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.

09. Prior to occupation a detailed enhancement strategy that provides details of enhancement measures for bats and nesting birds shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.

Land Condition / Contamination

10. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
 - II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.
 - III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

- B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.
- C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.

Highways

11. Before any other operations are commenced detailed designs for the proposed vehicular and pedestrian access arrangements shall be submitted to the Local Planning Authority for written approval.

Reason – In the interests of highway safety.

12. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
- parking of vehicles of site operatives and visitors
 - routes for construction traffic
 - hours of operation
 - method of prevention of debris being carried onto highway
 - pedestrian and cyclist protection
 - proposed temporary traffic restrictions
 - arrangements for turning vehicles

Reason – In the interests of highway safety.

13. Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/ modified in accordance with the approved designs, the subject of Condition 11 above, all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

14. All existing vehicular and pedestrian accesses to the existing highway made redundant as a result of the proposed development shall be permanently closed with a physical barrier and the footway reinstated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

15. No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of staff/ customers/ service and delivery vehicles (including secure/ covered cycle parking), located, designed, laid out and constructed all in accordance with a scheme first submitted to and agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason – In the interests of highway safety.

16. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, each phase of development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason – In the interests of highway safety.

17. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall be locked in an open position whilst ever any operations are ongoing on site. Any gates shall also open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

18. No part of the development shall be brought into use until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason – In the interests of highway safety.

19. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason – In the interests of highway safety.

20. No building or use hereby permitted shall be occupied or the use commenced until a Framework Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. Subsequently with each Reserved Matters application a Travel Plan including targets, relating to each phase (or sub-phase as may be agreed in writing with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plans shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason – In the interests of highway safety.

Others

21. Construction work (inc. demolition works) shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason – In the interests of residential amenity.

22. Deliveries to the food store shall only be made between the hours of 07.00am and 11.00pm Monday to Saturday and between the hours of 08.00am and 5.00pm Sundays / Public Holidays.

Reason – In the interests of residential amenity.

23. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

24. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, details of a soft landscaping scheme for the approved development shall be submitted to the Local Planning Authority for consideration.
The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall

be carried out in accordance with the implementation programme.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

25. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

26. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.
Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the building.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

27. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

Reason - In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CS13 of the Core Strategy.

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.

Drainage

03. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed.

Any works in or nearby an ordinary watercourse require may consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact Flood.Team@derbyshire.gov.uk.

The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SuDS Manual C697. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status.

04. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:
- Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
 - Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
 - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
 - Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
 - Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
 - Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

Highways

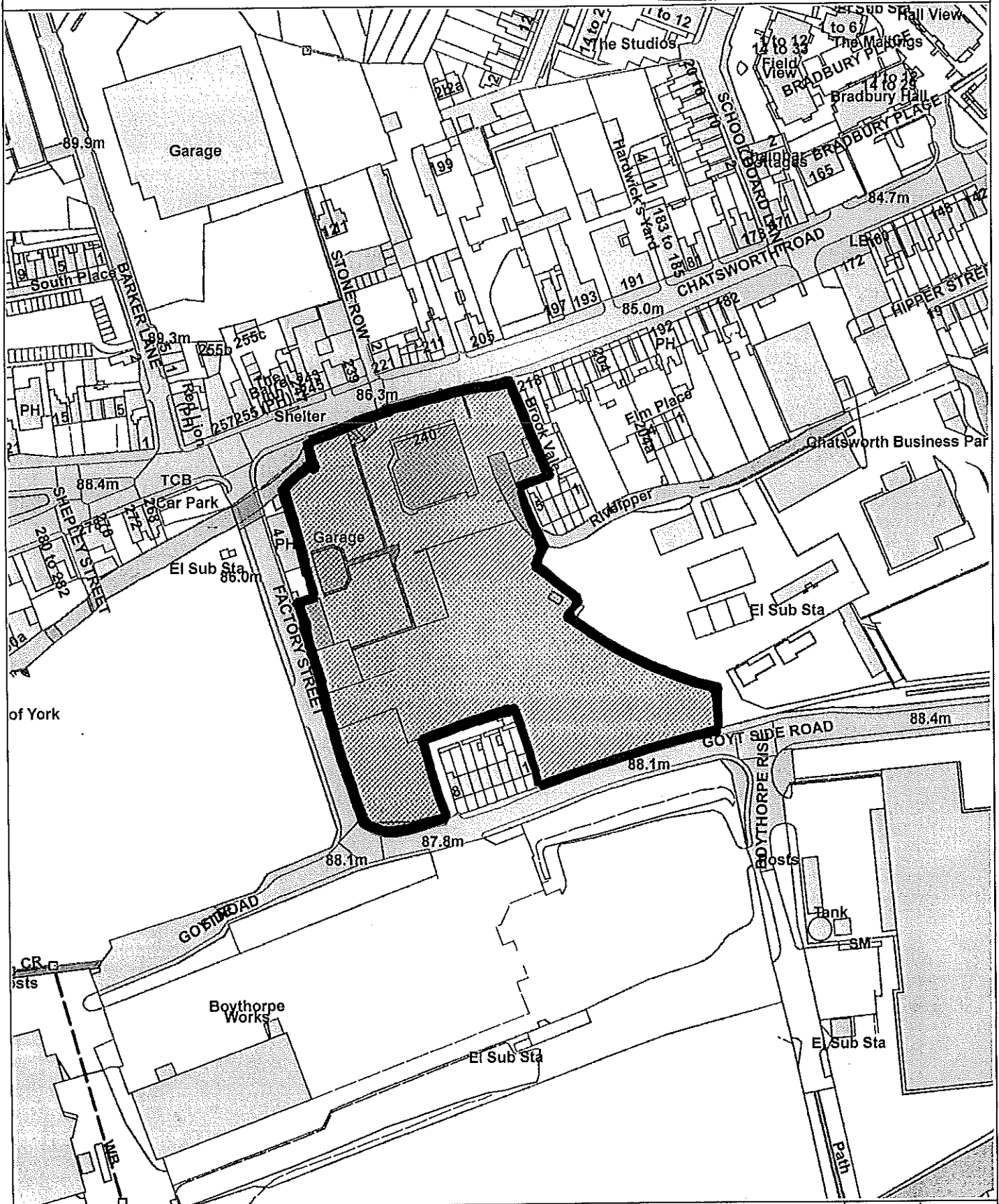
05. The Highway Authority recommends that the first 6m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

06. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
07. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
08. Highway surface water shall be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
09. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
10. Car parking spaces should measure 2.4m x 5.5m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.

11. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and / or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and / or are for a duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.

12. Where development has been approved subject to the preparation and implementation of a Travel Plan, the applicant is obliged to submit the appropriate documentation to the Local Planning Authority well in advance of the development being taken into use. Advice regarding the content of Travel Plans may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 580000 and ask for the Transportation Section).

PLAN - CHE/17/00209/FUL - Lidl, Chatsworth Road



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Case Officer: Sarah Kay
Tel. No: (01246) 345786
Ctte Date: 30th October 2017

File No: CHE/17/00327/FUL
Plot No: 2/923

ITEM 3

ERECTION OF MOTOR RETAIL DEALERSHIP COMPRISING MOTOR VEHICLE SALES SHOWROOM, MOTOR VEHICLE MAINTENANCE WORKSHOP AND ANCILLARY ROOMS, DETACHED VALET BUILDING, FORMATION OF ACCESS ROADS AND ASSOCIATED HARD AND SOFT LANDSCAPING (REVISED PLANS RECEIVED 24/08/2017) AT VERTU LANDROVER, DISCOVERY WAY, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 9EG FOR VERTU MOTORS PLC

Local Plan: CS13 Economic Growth
Ward: Old Whittington

1.0 CONSULTATIONS

DCC Highways	Comments received 12/07/2017 and 12/10/2017 – see report
Environmental Services	Comments received 07/09/2017 – see report
Design Services	Comments received 04/07/2017 and 27/09/2017 – see report
Economic Development	Comments received 03/07/2017 – see report
Lead Local Flood Authority	Comments received 26/06/2017 and 25/09/2017 – see report
Yorkshire Water Services	Comments received 13/07/2017 raising no objections
Derbyshire Constabulary	Comments received 10/07/2017 and 04/09/2017 – see report
Coal Authority	Comments received 10/07/2017 and 19/09/2017 – see report

Urban Design Officer

Comments received 22/08/2017
– see report

Site Notice / Neighbours

No letters of representation
received

2.0 **THE SITE**

- 2.1 The site is located on Station Road to the north of the Whittington Moor roundabout and mainline railway. It is situated within a commercial area comprising vehicle sales and mixed industrial uses. The area is generally characterised by modern industrial and showroom premises with associated yards, storage and parking.



- 2.2 The site frontage is occupied by vehicle parking and display areas with some landscaping. Immediately to the south is an associated Renault car dealership and the northern boundary is defined by a vegetated watercourse known as the Ridding Brook, separating the site from an area of industrial premises beyond. The rear of the site is mainly given over to vehicle storage, parking and separate valet building, which would be demolished as part of the proposed plans. The site boundaries to the north and west are largely vegetated.

- 2.3 The existing showroom building comprises a highly glazed display area with a reconstituted stone plinth and entrance detail, which creates an attractive frontage to the site. The gable includes a deep overhang supported by a steel column. This creates depth and strengthens the sense of arrival and legibility of the entrance. The rear part of the building has a more conventional industrial appearance and consists of mainly large format grey panelling.
- 2.4 The site is accessed from Discovery Way which is shared with the adjacent Motor Car Showroom / Dealership located south west of the application site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0584/0322 - Permission to reclaim glass from an existing tip with the aim of leaving the site suitable for industrial development at Station Road, Whittington Moor, Chesterfield.
Approved 07/12/1984.
- 3.2 CHE/1286/0755 - Permission for industrial estate on land adjacent to 103 Station Road, Old Whittington, Chesterfield.
Approved 20/03/1987.
- 3.3 CHE/1188/0850 and CHE/1188/1898 - Permission for the reclamation of glass tip removal of shallow coal and old workings and restoration for industry land adjacent to 103 Station Road, Whittington Moor.
Approved 06/06/1989.
- 3.4 CHE/1897/0414 - Outline application for construction of building for new land rover dealership.
Approved 16/10/1997.
- 3.5 CHE/0598/0268 - Secure compound area to rear of existing development.
Approved 18/06/1998.

4.0 **THE PROPOSAL**

- 4.1 The application, which is submitted in full, proposes reconfiguration of the existing Land Rover Motor Car Dealership involving comprehensive alterations to the existing central dealership building and front and rear extensions to the building to create a

fully reconfigured new car showroom, maintenance workshop and ancillary rooms.

4.2 The proposals also include the erection of a detached single storey valet building to the rear of the site, formation of a new access road layouts and associated hard and soft landscaping proposals.

4.3 Overall the works will increase the area of the dealership by 1375sqm of new floor space.

4.4 The application submission is accompanied by the following plans / supporting documents:

- Location Plan – 2711(PL)01
- Existing Site Plan - 2711(PL)02.RevB
- Existing Floor Plans – 2711(PL)03
- Existing Elevations - 2711(PL)04
- Proposed Site Plan - 2711(PL)05.RevB
- Proposed GF and FF Plans – 2711(PL)06.RevB
- Proposed Elevations – 2711(PL)07.RevB
- Indicative 3D Visualisation – 2711(PL)08
- Proposed Valet – 2711(PL)09
- ~~Proposed Site Plan Phase 2 - 2711(PL)10~~
- Proposed Drainage - 119669/2003
- Proposed Site levels and Drainage H132-103 Rev C
- CCTV Plan – Q1758-R1
- Design and Access Statement (prepared by McLaren Murdoch & Hamilton Chartered Architects April 2017)
- Flood Risk Assessment (prepared by Fairhurst August 2017)
- Coal Mining Risk Assessment (prepared by Fairhurst August 2017)
- Due Diligence Report (prepared by Remedios March 2016)

4.5 The application was revised by the submission of revised plans and supporting documents on the 24/08/2017 which are incorporated into the list above. *It is noted that there is a Phase 2 development shown only on the proposed site plan, with no further floor plans or elevations reflecting this second phase. The application therefore does not consider this element of the scheme.*

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

5.1.1 The site is situated in the built settlement of Old Whittington ward in an area which is predominantly commercial in nature. Having regard to the nature of the application proposals policies CS1, CS2, CS3, CS6, CS7, CS8, CS9, CS13, CS16, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply.

5.2 **Principle of Development**

5.2.1 The site itself is identified in the adopted Local Plan as an area for Economic Growth under the provisions of policy CS13 of the Core Strategy. The proposed development is broadly in accordance with policy CS13 which supports proposals for new employment development where they accord with the overall spatial strategy, including B2 uses within established business areas. The proposed use is suitable for the location, well located with good transport connections, road frontage and would be unlikely to cause conflict with any existing uses. It is unlikely that the current proposal would generate same level of jobs as most alternative B uses, however this must be off-set against the tests set out in policy CS2. The proposed development would meet the criteria a) to g) set out in CS2.

5.2.2 The site is reasonably well located for walking, cycling and proximity to Whittington Moor District Centre, in accordance with policy CS1 – Spatial Strategy, and being located on a main road staff and visitors to the site have immediate access to a major bus route.

5.2.3 Car Showroom uses are covered by policy CS16 of the Core Strategy and this policy allows for showrooms to be permitted in out of centre locations if they would be unsuitable for a town centre. It is accepted that this site is already an existing car showroom and therefore this component of the application is also acceptable.

- 5.3 **Design and Appearance Considerations (inc. Neighbouring Impact)**
- 5.3.1 The application site sits in a predominantly commercial area, where adjoining neighbouring properties are made up of other commercial business premises. The proposed design, scale and appearance of the development proposals present an appropriate relationship to the neighbouring properties / premises.
- 5.3.2 The angular forms of the new additions are intended to create a clean modern look to the building that reflects the premium quantities of the franchise brand. The design philosophy is to reduce the extent of glazing to prevent fluctuations in temperature associated with highly glazed facades. The new cladding a colour scheme reflects the clients need to adhere to corporate identity requirements.
- 5.3.3 The proposed changes would have a considerable impact on the form and interest of the existing building, its principle facades and how it relates to the site entrance. The resulting design seeks a more generic, angular format and enclosed appearance to the showroom. Notwithstanding this it is considered that the design proposed represents a typical Motor Car Showroom appearance and the cladding components being proposed are similar to those seen in the immediate surrounding area.
- 5.3.4 The site entrance would be repositioned entering the site slightly further back than the current location. The repositioned site entrance is aligned at the point where the proposed new cladding meets the existing building (also clad in silver panels) and where the escape door and 'handover' bay entrance are positioned. The main elevation facing Station Road would be closer the street than at present and contains a large display window, which relates positively to the street and incorporates the main building entrance. Internally, the vehicle display area is a double height space overlooked by a mezzanine floor.
- 5.3.5 Having regard to the overall design and appearance of the proposals both the Urban Design Officer (UDO) and the Crime Prevention Design Advisor (CPDA) have provided formal comments on the application submission and both have raised some concerns about component parts of the overall scheme.

- 5.3.6 The UDO commented that the corporate branding and external alterations proposed to the showroom building appeared a retrograde step to the design and appearance of the current showroom building, and overall finish and fenestration details of the building appeared heavily dominated by large expanses of cladding which he regarded as a weakness of the overall scheme. While it is recognised that the materials, form and reduced extent of glazing are driven by the corporate branding and identity requirements, the proposed new building form has resulted in an arguably less interesting built form and appearance with a less well resolved elevation in relation to Discovery Way than the existing showroom building.
- 5.3.7 The CPDA objected to the application as proposed, on the grounds that the proposed removal of boundary fencing would be detrimental to site security. The CPDA noted that the application contained details of additional CCTV coverage for the application site and neighbouring dealership, however, in his opinion this provision is not acceptable as a replacement for an adequately secure boundary, and is unlikely to be of any deterrence to intrusion into the site to commit acts of damage and minor theft. He commented that the boundary fence was erected on site because of rising levels of crime against vehicle stock and buildings and to leave an open boundary in context of this site will in my view lead to avoidable crimes occurring, generating avoidable demands on our resources in responding to, recording and investigating reported offences.
- 5.3.8 Firstly having regard to the comments of the UDO it is considered, given that the site is rectangular in shape, public vantage points of the proposed building are very limited to the Station Road frontage as seen in the images below:



5.3.9 Whilst it is accepted that it would be more desirable for the proposed building elevations to reflect balanced fenestration patterns, with more glazing, the limitations of the site, the need for the building to be retained, reconfigured and extended (rather than being entirely rebuilt) mean that there are compromises which have to be made in the external appearance. Given the character and appearance of the surrounding area and the form and nature of the other commercial buildings prevalent in the streetscene it is certainly unlikely that the LPA could sustain a reason to refuse planning permission for the works being sought in the grounds of the design of the building.

- 5.3.10 Secondly having regard to the outstanding objection from the CPDA, it is noted that the applicant does not wish to amend their application proposals. It is their desire to open up the site frontage to the public by the installation of 1.2m high steel bollards in place of the existing metal railings (seen in the street view images above). The CPDA comments that the railings in situ to Station Road were erected to address crime issues experienced at the site in the past. Notwithstanding this however there is no planning requirement to retain the fencing in situ and it could therefore be taken down by the current operator without permission. Furthermore the bollards proposed to replace the fence only need permission because they are 1.2m high. One 1m in height or below could be erected under PD rights without involvement in the planning process.
- 5.3.11 Whilst the comments of the CPDA are noted they do not stand alone as a reason to refuse planning permission, given the fall back position highlighted above. It is strongly recommended that the applicant reconsider the expert advice which has been provided by the CPDA, however planning permission cannot be justifiably refused on this basis alone. Particularly as the LPA have recently agreed to the construction of a new Motor Car Showroom on Spire Walk Business Park (Perrys Ford) where a similar open boundary to the public footway (hooped boundary divided) has been accepted without objection by the CPDA.
- 5.3.12 Overall it is considered that the design and appearance of the proposed extensions and alterations to the building are acceptable, having regard to the context and provisions of policies CS2 and CS18 of the Core Strategy in relation to design and amenity. Furthermore in respect of neighbouring amenity it is considered that the siting, scale and massing of the proposed store extensions are acceptable.

5.4 **Highways Issues**

- 5.4.1 The application as submitted and revised was reviewed the Local Highways Authority who responded on both occasions raising concerns about the loss of a significant number of car parking spaces as a result of the development proposals. The LHA sought further explanation from the Applicant to substantiate how they

considered the loss of parking provision at the site could be justified and not have a detrimental effect on the public highway.

- 5.4.2 Having regard to the comments of the LHA detailed above it is first and foremost necessary to consider the application site as it stands and clearly (as it can be seen from the aerial photograph included in section 2.1 above) the site has a substantial amount of hard surfaced areas of car parking.
- 5.4.3 Car parking standards for Motor Car Dealerships (which are a Sui Generis use class) are not set in the Core Strategy or predating Local Plan, as they are required to be individually assessed.
- 5.4.4 In this case the applicant has indicated that they currently have 26 no. customer parking spaces and 12 no. staff / visitor car parking spaces available; as well as at least 40 no. separate servicing spaces, 35 no. display spaces and approx. 150 no. compound spaces. As a result of the application proposals the applicant has reconfigured the site layout and their latest drawing shows on site parking provision for up to 273 no. vehicles therefore it is not considered that the LHA have any justification for the comments they have made on the application submission. Whilst the scheme will see part of the site built upon, the reconfiguration of the layout brings with it opportunities to improve the site layout and parking availability (inc. cycle parking and electric vehicle charging points).
- 5.4.5 Accordingly it is considered that the development proposals as detailed demonstrate adequate site access, service arrangements and on-site parking provision such that there are no adverse highway safety issues arising from the site redevelopment. The submission demonstrates compliance with policy CS20 of the Core Strategy and the wider provisions of the NPPF. Appropriate planning conditions will need to be imposed on any decision issued to ensure the parking provisions is provided and maintained as part of the development proposals and future site operation.

5.5 **Flood Risk and Drainage**

- 5.5.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site is affected by flood risk zone 3 and therefore the site has a high probability of fluvial flooding and is also adversely affected by surface water flooding. In respect of drainage, the application details that the

development is to be connected to existing mains drain for foul and surface water will be directed to a sustainable drainage solution.

5.5.2 Having regard to the fact the application site was affected by flood risk zone 3, initial consultee responses from the **Lead Local Flood Authority** (LLFA) and the **Design Services** (DS) team advised that the application required a Flood Risk Assessment (FRA) to be undertaken.

5.5.3 An FRA was submitted on 24/08/2017 which was reviewed by both the LLFA and DS team as follows:

***Design Services** – We have reviewed the FRA submitted. It is noted that the site is located with Flood Zone 3 on the Environment Agency maps and may therefore be at risk of flooding. The type of commercial development proposed may be suitable for development within this area classified as less vulnerable under the NPPF guidance. The floor levels of the proposed buildings should be set no lower than the existing and consideration should be given to flood resilient construction.*

It is noted that the applicant proposes to utilise the existing drainage system and with the same impermeable area will discharge the same rate of surface water. We would have preferred to have seen a reduction in runoff however if the existing situation is not exacerbated we would have no objection.

***LLFA** - Based on the nature and scale of the development, the LLFA do not have any formal comments to provide for this application.*

The proposals detail that the existing surface water drainage system will be utilised with minor alterations for the revised layout and that the impermeable area will not change.

As such the LLFA do not feel there is any need for applying a detailed drainage design condition. However, The LLFA would like to highlight the benefits of utilising Sustainable Drainage and water re-use and advise that options to incorporate such features are taken where possible.

5.5.4 Given the comments received above and the intended drainage connections detailed the proposals are concluded to meet with the requirements of Policy CS7 of the Core Strategy and wider NPPF.

5.6 **Land Condition / Contamination**

5.6.1 The site the subject of the application comprises of hard surfaced / previously developed land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.

5.6.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission and initially objected to the application due to the application being absent of a Coal Mining Risk Assessment (CMRA). On the 24/08/2017 a CMRA was submitted and the CA subsequently provided the following response:

'The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report (22 August 2017, prepared by Fairhurst); that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat areas of shallow mine workings to ensure the safety and stability of the proposed development, these should also be conditioned to be undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for the shallow coal workings for approval;*
- * The undertaking of that scheme of intrusive site investigations;*
- * The submission of a report of findings arising from the intrusive site investigations, including the results of any gas monitoring undertaken;*

- * *The submission of a scheme of remedial works for the shallow coal workings for approval;*
- * *The implementation of those remedial works.*

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report (22 August 2017, prepared by Fairhurst) are sufficient for the purposes of the planning system and meet the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above.'

5.6.3 In addition to the comments of the CA, the Council's **Environmental Health Officer** (EHO) also provided the following response:

I have inspected the above application and have no adverse comments to make. However, the site was used as a refuse tip, and the existing redevelopment predates the current contaminated land regime. As such, I ask that the standard contaminated land condition be added to any approval granted.

5.6.4 Having regard to the comments detailed above from the CA and EHO above appropriate conditions can be imposed to this effect, if permission is granted, to ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of noise and land condition.

5.7 **Other Considerations**

5.7.1 **S106 Contributions**

The application details the creation of 1375sqm of new floorspace, categorising the development proposals as a major application.

Under the provisions of policy CS18 major development proposals costing in excess of £1m should contribute towards the % for art initiative with a contribution of up to 1% of the overall development costs being secured by S106 agreement.

In this regard the applicant has confirmed that the development costs of the scheme will be approximately £3.25m and therefore it

is concluded that a S106 agreement is necessary to secure the necessary % for art contribution.

5.7.2 Local Labour

The development proposals are a major application and therefore the Council's Economic Development team have requested that a Local Labour condition be imposed on any decision given, to accord with the provisions of policy CS13 of the Core Strategy. This is appropriate and consistent with development plan policy given the scale and nature of development.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 23/06/2017; by advertisement placed in the local press on 29/06/2017; and by neighbour notification letters sent on 22/06/2017.

6.2 There have been no letters of representation received as a result of the applications publicity.

7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUDED**

9.1 The proposed alterations to the existing building and car parking layout; and the proposed extensions to the existing building are all considered to be appropriately sited, detailed and designed such that the development proposals comply with the provisions of policies CS1, CS2, CS4, CS15 and CS16 of the Chesterfield Local Plan: Core Strategy 2011 – 2031.

9.2 Planning conditions have been recommended to address any outstanding matters and ensure compliance with policies CS7, CS8, CS9, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and therefore the application proposals are considered acceptable.

10.0 **RECOMMENDATION**

10.1 That a S106 agreement be negotiated to cover:

- Percent for Art (up to 1% of development costs);

10.2 That the application be **GRANTED** subject to the following conditions / notes:

Time Limit etc

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Proposed Site Plan - 2711(PL)05.RevB
- Proposed GF and FF Plans – 2711(PL)06.RevB
- Proposed Elevations – 2711(PL)07.RevB
- Indicative 3D Visualisation – 2711(PL)08
- Proposed Valet – 2711(PL)09
- Proposed Drainage - 119669/2003
- Proposed Site levels and Drainage H132-103 Rev C
- CCTV Plan – Q1758-R1
- Design and Access Statement (prepared by McLaren Murdoch & Hamilton Chartered Architects April 2017)
- Flood Risk Assessment (prepared by Fairhurst August 2017)
- Coal Mining Risk Assessment (prepared by Fairhurst August 2017)
- Due Diligence Report (prepared by Remedios March 2016)

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

Site Investigations

03. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues and contamination on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the remediation / stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Reason - To fully establish the presence and / or otherwise of any contamination and / or coal mining legacy and to ensure that site is remediated, if necessary, to an appropriate standard prior to any other works taking place on site.

Land Condition / Contamination

04. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
- II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

- III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

- B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.

- C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.

Highways

- 05. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
 - parking of vehicles of site operatives and visitors
 - routes for construction traffic
 - hours of operation
 - method of prevention of debris being carried onto highway
 - pedestrian and cyclist protection
 - proposed temporary traffic restrictions
 - arrangements for turning vehicles

Reason – In the interests of highway safety.

06. Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/ modified in accordance with the approved designs all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

07. No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of staff/ customers/ service and delivery vehicles (including secure/ covered cycle parking), located, designed, laid out and constructed all in accordance with a scheme first submitted to and agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason – In the interests of highway safety.

08. The development hereby permitted shall not be occupied until the cycle parking facilities have been fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason – In the interests of highway safety.

Landscaping

09. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.
Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units,

signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

Other

10. Construction work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason - In the interests of residential amenities.

11. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

12. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

Reason - In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CS13 of the Core Strategy.

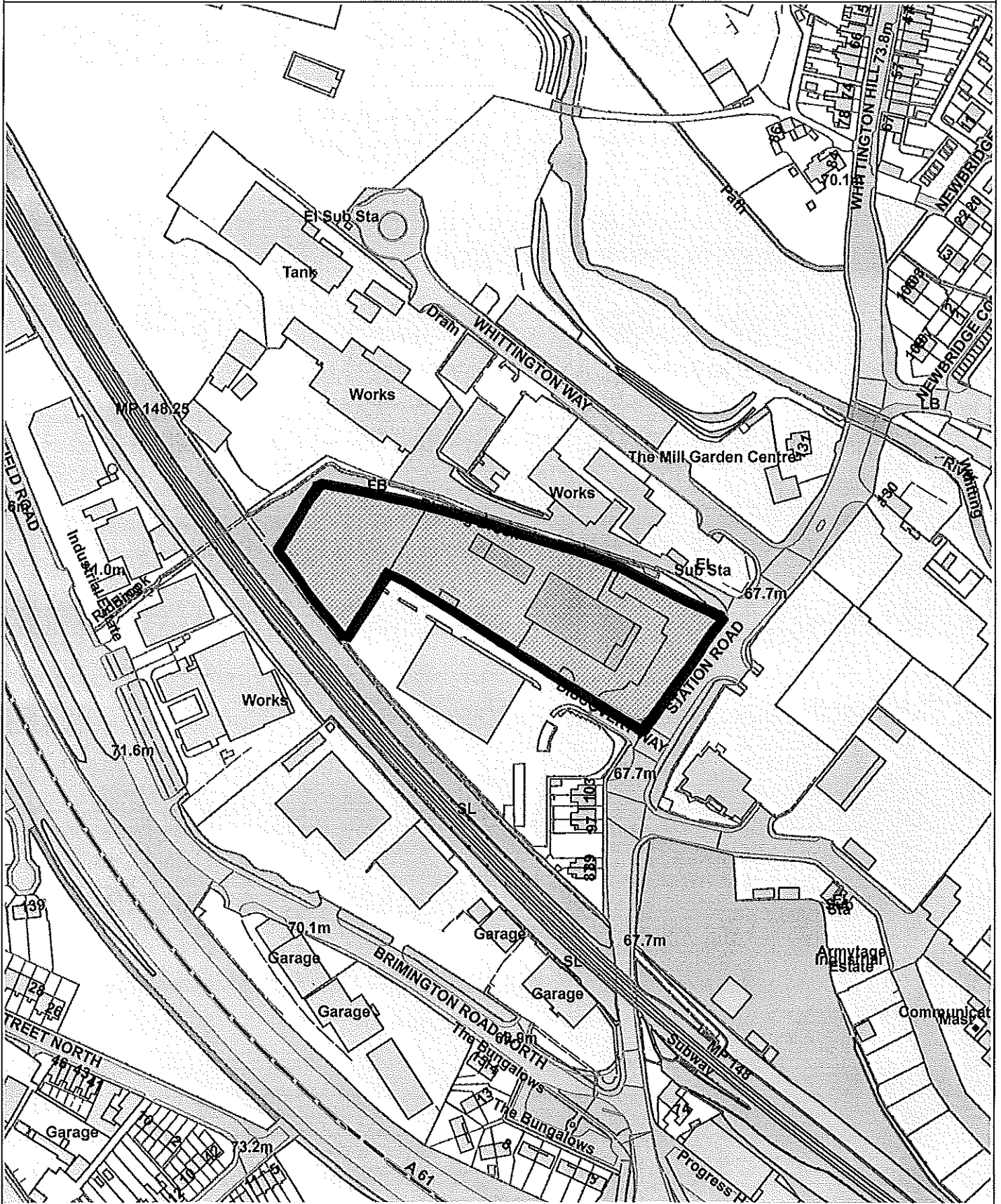
Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.

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PLAN - CHE/17/00327/FUL - Discovery Way, Whittington Moor



CHESTERFIELD
BOROUGH COUNCIL

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NO REPORT FOR THIS COMMITTEE

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 TH OCTOBER 2017
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by the Group Leader, Development Management under the following Delegation references:- Building Regulations P150D and P160D, P570D, P580D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact:-

Building Regulations	Stuart Franklin	345820
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Agenda Item 6

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 TH OCTOBER 2017
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by Development Management and Conservation Manager under the following Delegation references:- Planning Applications P020D, P200D to P250D, P270D to P320D, P350D to P370D, P390D, P420D to P440D Agricultural and Telecommunications P330D and P340D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only.
Anyone requiring further information on any of the matters
contained in this report should contact:-

Planning Applications	Paul Staniforth	345781
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Delegated List
Planning Applications

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00334/FUL 2133	Brockwell	Replacement of the existing window units and the proposed installation of 2 No. personnel doors on the east facing elevation. Accompany to prior notification submission for conversion of vacant building to residential use CHE/17/00230/TCU At 10B Marsden Street Chesterfield S40 1JY For ASW Consultants LTD	CP	16/10/2017
CHE/17/00436/FUL 187 32	Barrow Hill And New Whittington	Installation and operation of a back-up electricity generation facility At Land At Whittington Road Barrow Hill Chesterfield For Mercia Power Response	CP	25/09/2017
CHE/17/00464/COU 6659	St Helens	Change of use of vacant shop to dwelling At Killis Cleaners 29 Sheffield Road Stonegravels Chesterfield S41 7LR For Mr Chelvagumar Maharaja	CP	06/10/2017
CHE/17/00475/FUL 1998	St Leonards	Conversion of the existing D2 Leisure Unit at 1-3 Knifemithgate, Chesterfield, to create 10 residential dwellings at first and second floor. At 1 - 3 Knifemithgate Chesterfield S40 1RF For MJ Developments (Chesterfield) Ltd	CP	13/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00492/FUL 629	Barrow Hill And New Whittington	Change of use of former open land to garden curtilage and erection of boundary wall and gates At Spring House 147 Burnbridge Road Old Whittington S41 9LT For Mrs Mary Burkitt	CP	04/10/2017
CHE/17/00498/FUL	Walton	Extension to create garage, kitchen, bedroom/en-suite and cloakroom. At 21 Millstream Close Walton S40 3DS For Mr Lee Hancock	CP	06/10/2017
CHE/17/00500/FUL	Lowgates And Woodthorpe	Construction of hardstanding 5m x 5m on the front of the property. This will require raising the land level by up to 560mm, surrounded by a retaining wall to bring the hardstanding to the same level as the highway. At 21 Willow Drive Mastin Moor S43 3AU For Mr Robin Hadfield	CPEOTZ	10/10/2017
CHE/17/00518/FUL 292	Moor	Basement store and ground floor rear kitchen extension to existing takeaway together with rear first floor extension to existing living accommodation. Amended plans received 22.09.2017. At 187 Sheffield Road Stonegravels Chesterfield S41 7JQ For Mr Michael Zhuhuanhuang	CP	13/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00521/FUL	Moor	Renovation works and minor external alterations to existing building together with change of use at ground floor from a dental surgery back to a dwelling house At 50 Highfield Lane Newbold S41 8AY For Clark Properties	CP	04/10/2017
CHE/17/00522/DOC 2150	Old Whittington	Discharge of planning conditions 3 (materials) and 4 (surface water drainage) of CHE/16/00233/FUL - two storey rear and side extension At 8 Bower Farm Road Old Whittington S41 9PP For Mr and Mrs White	DPC	27/09/2017
CHE/17/00530/FUL	Brockwell	Extension to lounge and porch at front of property At 196 Ashgate Road Chesterfield S40 4AL For Mr and Mrs Warrilow	CP	25/09/2017
CHE/17/00537/FUL 49	West	Single storey rear extension and new garage roof. At 8 Netherfield Road Somersall S40 3LS For Mr Malcolm Heeley	CP	27/09/2017
CHE/17/00543/ADV 953	St Leonards	New signage - amended plans received 25/09/2017 At Land Off Of Braidwood Way North Of Byron Street Birdholme For Perrys Ford	CP	25/09/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00544/FUL	Linacre	Proposed first floor side extension and alterations to front garage roof. At 39 Holme Park Avenue Upper Newbold S41 8XB For Dr T Bendinger	CP	25/09/2017
CHE/17/00545/DOC	Middlecroft And Poolsbrook	Discharge of condition 4 (landscaping scheme) and condition 6 (surface water drainage) of CHE/14/00022/FUL Proposed use of land for the private keeping and exercising of horses and construction of an all weather riding area - additional information received 22/9/17 At 34 Chesterfield Road Staveley S43 3QF For T and G Hart	DPC	25/09/2017
2148 543				
CHE/17/00549/FUL	Hasland	Small ground and first floor extension at the rear of the property, in brick (to match existing as close as possible) with concrete tile roof At 63 Norwood Avenue Hasland S41 0NN For Mr David Keeton	CP	25/09/2017
5884				
CHE/17/00551/FUL	Dunston	Construction of single storey garage/store to front of property At 61 Lindale Road Newbold S41 8JH For Mr Darren Pugh	REF	27/09/2017
1922				

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00552/FUL 14	Old Whittington	Single storey rear extension and creation of rooms in the loft space at No. 16 Ivy Close and a single storey rear extension and single storey garage/sun room at No. 14 Ivy Close - Re-Submission of Planning Application CHE/16/00572/FUL At 14 - 16 Ivy Close Old Whittington Chesterfield For Mr and Mrs Straw	CP	10/10/2017
CHE/17/00553/TEL	Dunston	Proposed telecommunication installation and associated works for EE UK Ltd and H3G UK. At Unit 2A Foxwood Road Sheepbridge S41 9RF For EE UK Ltd and H3G UK	PA	05/10/2017
CHE/17/00562/FUL 3568	Walton	Remove conifer hedge and replace with 2m high fence At 73 Foljambe Avenue Walton S40 3EY For Mr David King	CP	27/09/2017
CHE/17/00563/FUL 1922	Dunston	Rear kitchen and bedroom extension At 29 Lindale Road Newbold S41 8JH For Mr David Reece	CP	28/09/2017
CHE/17/00564/DOC 131	Loundsley Green	Proposed two storey side extension At 9 Purbeck Avenue Brockwell S40 4NP For Mr Chris Armstrong	REF	28/09/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00565/MA 544	Hollingwood And Inkersall	Material amendment to CHE/15/00283/FUL - installation of diesel/adblue point. (90,000 litre) At Plot 1 South Markham Vale Employment Growth Zone Markham Lane Duckmanton For Great Bear Distribution Ltd	CP	04/10/2017
CHE/17/00568/FUL	Barrow Hill And New Whittington	Environmental improvements to the northern area of London Boroughs Estate, Barrow Hill. The improvements to include resurfacing road/parking courts, paving, street lighting and boundary treatments within the area identified as Phase 1. At London Borough Estate Barrow Hill Chesterfield For Chesterfield Borough Council	CP	28/09/2017
CHE/17/00570/MA 876	Barrow Hill And New Whittington	Material Amendment to CHE/13/00595/FUL (Part demolition of rear boundary wall and erection of 2no. pairs of semi-detached houses) - to insert 3 additional windows and 1 french door into the east elevation of house D, plus inclusion of a projecting brick band course to all houses, and inclusion of a recessed window sized feature on the west elevation of house A At Barrow Hill Memorial Hall 3 Station Road Barrow Hill S43 2PG For Minotaur Construction Limited	UP	06/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00572/REM 3509	Hollingwood And Inkersall	Construction of a Use Class B2/B8 unit with ancillary (B1(a) offices, with associated access; parking and servicing area; engineering, landscaping and drainage works At Plot 6 Markham Vale Enterprise Way Duckmanton For Henry Boot Developments Ltd	CP	10/10/2017
CHE/17/00576/DOC 1990	Linacre	Discharge of planning conditions 3, 5, 6, 7, 9, 19, 25, 26 and 34 of CHE/16/00518/FUL - Residential development comprising 55 dwellings, access, landscaping and associated works At Site Of Former Newbold Community School Newbold Road Newbold For Miller Homes	DPC	11/10/2017
CHE/17/00578/REM Old Whittington	Old Whittington	Reserved Matters application of CHE/14/00556/OUT for a pair of semi-detached starter homes. Additional plans received 28.09.2017 and 05.10.2017. At 97 Station Road Old Whittington S41 9AW For Mr Peter Biddle	CP	06/10/2017
CHE/17/00582/DOC Old Whittington	Old Whittington	Discharge of planning conditions 21, 22 and 23 of CHE/16/00086/FUL and as amended by revised plans received 3.10.17 and 4.10.17 At 208 Land Off William Street North Old Whittington For Positive Homes Ltd	DPC	03/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00584/FUL	Walton	First floor rear extension, single storey side extension and erection of a front porch At 139 Hunloke Avenue Boythorpe S40 3EA For Mr Matthew Reynolds	CP	06/10/2017
CHE/17/00585/COU 1290	Brockwell	Proposed change of use of house to create 3 flats and retention of lower basement flat At 27 Albion Road Chesterfield S40 1LJ For Mr Paul Simmons	CP	11/10/2017
CHE/17/00587/FUL	West	Rear extensions and alterations At 24 Miriam Avenue Somersall S40 3NF For Mrs Carla Hakim	CP	10/10/2017
CHE/17/00589/ADV 313	Dunston	Fascia signage to side elevation 2 (drawing ref no 04/05/01-02), Fascia signage to side elevation 1 (drawing ref no 04/05001-02) , hanging sign to existing post/ gantry. 4. Vinyl graphic signage to shop doors. At Dunston Inn Dunston Lane Newbold For Manvesh Enterprises Ltd	CP	10/10/2017
CHE/17/00592/FUL 6326	West	Ground floor side and rear kitchen extension At 47 St Thomas Street Chesterfield For Mr Jamie Hall	CP	04/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00595/FUL	St Helens	<p>The construction of an enclosed tarmacadam drill/marching square, on an existing grassed area adjacent the sports hall. Including the provision of a metal storage container, with appropriate hard standing and new access path.</p> <p>At Chesterfield College Infirmary Road Chesterfield S41 7NG</p> <p>For Mr Mike Thackery</p>	CP	13/10/2017
CHE/17/00598/NMA	Brockwell	<p>Non material amendment to CHE/17/00183/FUL (Alterations to existing house, including new side and rear extension to replace outbuildings,removal of garage and conservatory and new car port and decking area and new dormer to roof) to increase the size of the carport foundations and re-site carport 150mm north to maintain clearance to nearest tree.</p> <p>At 45 Brockwell Lane Brockwell Chesterfield S40 4EA</p> <p>For Mr and Mrs Rix</p>	UP	27/09/2017
3195				
CHE/17/00602/FUL	Rother	<p>Two storey rear extension to existing split level property for form upper ground floor living room extension with balcony and lower ground floor 'sun-room'.</p> <p>At 18 Rushen Mount Birdholme S40 2JU</p> <p>For Mr & Mrs Peter & Elsie Jenner</p>	CP	10/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00603/DOC 404	Lowgates And Woodthorpe	Discharge of condition 3 (surface water drainage), 4 (drainage systems), 5 (coal mining report), 6 (Enhancement strategy), 7 (materials) and 9 (operations plan) of CHE/16/00806/FUL - Demolition and re-building and extension of abandoned cottage At Ponds Yard Farm Renishaw Road Mastin Moor S43 3DW For Mr and Mrs Lee	DPC	09/10/2017
CHE/17/00604/DOC	Lowgates And Woodthorpe	Discharge of condition 3 (materials) of CHE/16/00589/FUL - rear single storey extension with second storey side extension and internal alterations At Ponds Yard Farm Renishaw Road Mastin Moor S43 3DW For Mr and Mrs Lee	DPC	04/10/2017
CHE/17/00605/FUL	Holmebrook	Single storey front and side extension, two storey rear extension and raising of existing roof to create additional second floor accommodation. At 70 Springfield Avenue Chesterfield S40 1HL For Whirlowbrook Properties Ltd	CP	11/10/2017
CHE/17/00607/TPO	West	Remove deceased Horse Chestnut Tree At 44 Oakfield Avenue Chesterfield Derbyshire For Mr John Boden	CP	13/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00617/FUL	Brockwell	Two storey side extension, single storey rear extension and detached garage. Revised plans received 25 September 2017. At 40 Mansfeldt Road Newbold S41 7BW For Mr J Bedford	CP	16/10/2017
CHE/17/00622/FUL	St Leonards	Demolition of an existing glazed structure and erection of a single storey extension with glazed roof at rear of the property. At 132 Hady Hill Hady S41 0EF For Mrs Natasha Wilding	CP	05/10/2017
CHE/17/00631/FUL	Barrow Hill And New Whittington	Erection of a timber balcony to the rear elevation. At 45 Woodmere Drive Old Whittington S41 9TE For Mr and Mrs Martin and Jacky Hornsby	CP	11/10/2017
CHE/17/00649/FUL	St Leonards	Entrances to serve lower ground floors to York House, St Marys Gate At York House St Marys Gate Chesterfield S41 7TH For CP/JL and CA Bown	CP	13/10/2017
CHE/17/00672/TPD	St Helens	Large conservatory to rear of property At 27 Enfield Road Newbold S41 7HN For Mr O'Hara	PANR	05/10/2017

Code No File No	Ward	Proposal	Decision	Decision Date
CHE/17/00711/TPO 221	Rother	T1 - Spruce- Fell because of included bark on the twin stem of the tree T 2 -Willow - Lower broken stem by approx 2m and reduce stem on opposite side of the tree At 14 Florence Close Birdholme S40 2JL For Mr Holden	CP	13/10/2017
CHE/17/00719/DOC 4077	Brimington North	DISCHARGE OF CONDITION 8 of CHE/14/00380/OUT At Ringwood Centre Victoria Street Brimington S43 1HY For Rockcliffe Homes Ltd	DPC	11/10/2017
CHE/17/00732/TPO	Brimington South	Crown clean and lift on beech tree and crown clean and removal of 1 lower branch on Ash tree At Land Adjacent To 130 Station Road Brimington For Ms Chris Handley	CP	13/10/2017

Delegated List - Planning Applications

Key to Decisions

Code	Description
AC	Historic
AP	Historic
APPRET	Application returned to applicant
CI	Called in by secretary of state
CIRNO	Circular 18/84 no objection
CNOCO	Circular 18/84 no objs but conditions
CONCOM	Confirmation Compliance with Conditions
CP	Conditional permission
CPEOTZ	Conditional Permission Extension of Time
CPMAZ	Conditional consent for material amendment
CPRE1Z	Conditional Permission Vary Conditions
CPRET	Conditional Approval Retrospective
DPC	Discharge of Planning Conditions
FDO	Finally Disposed Of
GR CLOPUD	CLOPUD Granted
GRANT CLUD	CLUD Granted
GRNTEX	Permission Granted with Exemption
ND	Non Development
OBJ	Other Council objection
OC	Other Council no obj with comments
OW	Other Council no obj without comments
PA	Prior Notification Approval
PADEM	Prior Notification Demolition Approve
PD	Found to be Permitted Development
PR	Prior Notification Refusal
RAP	Retrospective Application Refused
RARETZ	Retrospective Application Approved
RC	Application Refused
REF	Refused
RETAP	DO NOT USE
RETRFZ	Retrospective Application Refused
RF CLODUP	CLOPUD Refused
RTN	Invalid Application Returned
S106	S106 Approved pending planning obligation
SC	Split decision with conditions
SU	Split decision - approval unconditional
UP	Unconditional permission
UPRET	Unconditional Approval Retrospective
WDN	Withdrawn
XXXXXX	Recommendation Pending

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Agenda Item 7

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 TH OCTOBER 2017
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by the Development Management and Conservation Manager under the following Delegation references:- Felling and Pruning of Trees P100D, P120D, P130D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact:-

Applications to Fell or Prune Trees	Steve Perry	345791
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SECTION 1

APPLICATION TO FELL OR PRUNE TREES

<u>CODE NO</u>	<u>DESCRIPTION OF PROPOSAL</u>	<u>TERMS OF DECISION</u>
CHE/17/00554/TPO TPO 4901.93 11/09/17	The pruning of two trees reference T1 Beech and T2 Lime on the Order map for A&J Arb Access on behalf of Mr Hawgood of 16 Gladstone Road. The works are to reduce the shading to the property.	<p>Consent is refused to the crown reduction of T1 Beech and T2 Lime because the crown reduction of the trees would reduce their amenity value, create an on-going maintenance problem and do little to solve the alleged light issues. Other pruning operations are also available to allow light to filter through the trees without changing the size and shape of the trees. There are also other trees in the garden area which are not protected that could be pruned to allow more light to enter the garden and property.</p> <p>Consent is granted to the crown thinning of T1 Beech with a recommendation to crown lift the tree. Consent is also granted to crown lift and reduce branches growing around the telephone wire of T2 Lime with a recommendation to crown thin the tree. A further application is therefore invited from the applicant for these works.</p>

<p>CHE/17/00608/TPO</p> <p>TPO 4901.35</p> <p>12/09/17</p>	<p>The pruning of two trees reference T3 & T4 London Plane on the Order map for Mr Moore of 1 Fenland Way, Walton.</p>	<p>Consent is granted to the crown reduction of two London Plane trees by 4 metres pruning back to suitable replacement branches and leaving a well-balanced crown. Consent is also granted to a 5.2 metre crown lift to remove branches low over the highway.</p>
<p>CHE/17/00588/TPO</p> <p>TPO 4901.71</p> <p>13/09/17</p>	<p>The pruning of 16 trees reference T1 & T20 Sycamore, T2 – T4 Ash, T6, T23 & T24 Horsechestnut, T7 Hawthorn, T8 Beech, T9, T10, T12 & T27 Lime and 2 Sycamore trees within G1 on the Order map for Derby Diocesan Board of Finance Ltd at the Rectory, Church Street, Staveley.</p>	<p>Consent is granted to the crown lifting of the trees to clear the footpaths, highway and the Rectory grounds. Consent is also granted to remove dead wood from within the crowns.</p>
<p>CHE/17/00643/TPO</p> <p>TPO 4901.11a</p> <p>18/09/17</p>	<p>The felling of 6 dead/dangerous trees and the pruning of 1 Sycamore tree within W1 on the Order map for Derbyshire County Council Highways in the wooded area off Hady Hill. .</p>	<p>Consent is granted to the felling of 6 dead/dangerous trees along the highway edge within the wooded area off Hady Hill. The duty to replant has been dispensed with on this occasion due to natural regeneration within the wood.</p> <p>Consent is also granted to the removal of one dead limb overhanging the highway on one Sycamore tree.</p>

<p>CHE/17/00643/TPO</p> <p>TPO 4901.11a</p> <p>18/09/17</p>	<p>The pruning of two trees reference T1 Plum and T2 Oak on the Order map at 30 Devonshire Street, Brimington for Mr Salt. The Plum tree has a bracket fungus at the base and the Oak is low over the highway and close to two properties.</p>	<p>Consent is granted to the crown reduction of one Plum tree by 50% and the reshaping of the crown. Consent is also granted to the crown lifting and reduction of branches away from the structure to give a 2 metre clearance of T2 Oak.</p>
<p>CHE/17/00683/TPOEXP</p> <p>TPO 4901.186</p> <p>18/09/17</p>	<p>The felling of one storm damaged Sycamore tree reference T18 on the Order map for Mr Pocock of 73 Hady Hill, Hady.</p> <p>One of the two main stems has failed leaving the remainder of the tree vulnerable to further storm damage. The trees main stem also has severe decay where the two main stems joined.</p>	<p>Consent is granted to the felling of one Sycamore tree by virtue of Part VIII, Chapter 1, Section 198, paragraph 6(a) of the Town and Country Planning Act 1990 as amended under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, which has provision for dead and dangerous trees, Section 206, paragraph 1(b) of the same Act requires any dead/dangerous tree to be felled under Section 198 to be replaced during the next available planting season to the satisfaction of the Borough Council.</p> <p>The duty to plant a replacement tree has been dispensed with on this occasion due to the trees location and lack of amenity value in the rear garden.</p>

<p>CHE/17/00646/TPO</p> <p>TPO 4901.160</p> <p>18/09/17</p>	<p>The pruning of two trees reference T20 Oak and T21 Beech on the Order map for Mr & Mrs Yates of 68 Mansfield Road, Hasland.</p>	<p>Consent is granted to crown lift the trees by 5.2 metres to clear the highway and the crown thinning of T20 Oak to allow more light to the frontage of the property and a crown clean to T21 Beech to remove dead wood.</p>
<p>CHE/17/00606/TPO</p> <p>TPO 4901.15</p> <p>18/09/17</p>	<p>The pruning of one Horsechestnut tree reference T14 on the Order map for Heathscapes on behalf of Mr Alan Kirk of 7 Upland Rise, Walton.</p>	<p>Consent is granted to a crown lift by 3m when measured from the rear garden, a light crown thin by 5% and the reshaping the crown by reducing protruding branches sticking out from the main canopy.</p>
<p>CHE/17/00636/TPO</p> <p>TPO 4901.263</p> <p>18/09/17</p>	<p>The pruning of 3 Sycamore trees reference T3-T5 on the Order map for Mr Andrew Watson of 10 Cragside Close, Piccadilly.</p>	<p>Consent is granted to the crown lifting of 3 trees by 5 metres when measured from the base of the tree and a crown thin by 25% to reduce the overshadowing and light issues in the garden area.</p>
<p>CHE/17/00732/TPO</p> <p>TPO 4901.232</p> <p>13/10/17</p>	<p>The pruning of 2 trees reference T1 Copper Beech and T2 Ash on the Order map for Ms Chris Hadley of 115 Station Road, Brimington. The trees are on land adjacent to 130 Station Road, Brimington and the lower branches are low over the highway and neighbouring property.</p>	<p>Consent is granted to the crown lifting of the trees and a crown clean to remove dead wood.</p>

<p>CHE/17/00607/TPO</p> <p>TPO 4901.91</p> <p>13/10/17</p>	<p>The felling of one Horsechestnut tree reference T3 on the Order for Mr John Boden of 44 Oakfield Avenue. The tree is suffering from bleeding canker and has defects on the main stem.</p>	<p>Consent is granted to the felling of one Horsechestnut tree by virtue of Part VIII, Chapter 1, Section 198, paragraph 6(a) of the Town and Country Planning Act 1990 as amended under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, which has provision for dead and dangerous trees, Section 206, paragraph 1(b) of the same Act requires any dead/dangerous tree to be felled under Section 198 to be replaced during the next available planting season to the satisfaction of the Borough Council.</p> <p>The replacement tree is to a Sweet Gum and planted on the south boundary of the rear garden where its visual amenity will be greater.</p>
<p>CHE/17/00711/TPO</p> <p>TPO 4901.280</p> <p>13/10/17</p>	<p>The felling of one Silver Fir tree reference T26 and the pruning of one storm damaged Willow tree reference T9 on the Order for Mark Whatley Tree Services on behalf of Mr Holden of Green Acres, Florence Close.</p>	<p>Consent is granted to the felling of one Silver Fir tree which has a codominant stem at the base and is vulnerable to storm damage. The duty to plant a replacement tree has been dispensed with on this occasion due to other trees on the river banking.</p> <p>Consent is also granted to the reduction and reshaping of one storm damaged Willow tree.</p>

<p>CHE/17/00677/TPO</p> <p>TPO 4901.97</p> <p>16/10/17</p>	<p>The pruning of 1 Lime tree reference T1 on the Order map for Mr Markus of 48 Cobden Road.</p>	<p>Consent is granted to the crown lifting of the tree to 5.2 metres as the tree is low over the highway, the crown thinning of the tree to allow more light into the garden and the reduction of branches to clear the telephone wire.</p>
<p>CHE/17/00665/TPO</p> <p>TPO 4901.89</p> <p>18/10/17</p>	<p>The felling of one Pear tree reference T53 and the pruning of 53 trees reference TT1-T9, T11-T44, T46-T51, T54, T58, T60-T61, T63-T64, & G1 & G2 on the Order for Ken Portas Tree Services for Broomhouse, Broomhill Road, Old Whittington.</p>	<p>Consent is granted to one Pear tree reference T53 by virtue of Part VIII, Chapter 1, Section 198, paragraph 6(a) of the Town and Country Planning Act 1990 as amended under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, which has provision for dead and dangerous trees, Section 206, paragraph 1(b) of the same Act requires any dead/dangerous tree to be felled under Section 198 to be replaced during the next available planting season to the satisfaction of the Borough Council.</p> <p>The replacement tree is to an Oak and planted as near as is reasonable possible to the original tree or agreed alternative.</p> <p>Consent is also granted to the crown reduction of two Poplar trees reference T40 & T42 and the crown lifting and crown cleaning of 51 other trees on the site to clear the roadside and driveways of low branches and dead wood.</p>

CHE/17/00671/TPO TPO 4901.14 18/10/17	The pruning of 3 trees reference T24 Silver Birch, T25 Chestnut and T26 Lime on the Order map for Mr Peter Passmore of 42 Netherleigh Road.	Consent is granted to the crown thinning of 3 trees which includes the removal of dead wood within the crown.
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SECTION 2**NOTIFICATION OF INTENT TO AFFECT TREES IN A CONSERVATION AREA**

<u>CONTENTS OF NOTICE</u>	<u>SUMMARY OF CONSIDERATIONS</u>	<u>TERMS OF DECISION</u>	<u>DATE OF DECISION</u>
CHE/17/00596/CA The felling/pruning of trees for The Derby Diocesan Board of Finance Ltd at The Rectory, Church Street, Staveley.	The trees are within the Staveley Conservation Area and the applicant wishes to prune/fell the trees to clear the boundary retaining wall/fences and public highway.	Agreement to the felling of small self-set trees within 3 groups and the pruning of 4 individual trees. The felling and pruning of the trees will have no adverse effect on the amenity value of the area.	13/09/17
CHE/17/00694/CA The felling/pruning of trees for Tomlinson Tree Surgeons at 408 Chatsworth Road, Brampton.	The trees are within the Chatsworth Road Conservation Area and the applicant wishes to fell one Poplar tree which has recently come down in the storms and landed on the Screwfix building adjacent.	Agreement to the felling of one Poplar tree and pruning back away from the building of various trees. The felling and pruning of the trees will have no adverse effect on the amenity value of the area.	20/09/17
CHE/17/00738/CA The pruning of 2 Lime trees and 1 Horsechestnut tree for St Thomas Church, Chatsworth Road, Brampton.	The trees are within the Chatsworth Road Conservation Area and the applicant wishes to prune the trees as they are blocking the speed camera.	Agreement to the crown lifting by 5.2 metres of 3 trees. The pruning of the trees will have no adverse effect on the amenity value of the area.	16/10/17

<p>CHE/17/00660/CA The felling/pruning of trees for Derbyshire County Council Highways in the grass verge at Somersall Lane, Somersall.</p>	<p>The trees are within the Somersall Lane Conservation Area and the applicant wishes to fell one Sycamore adjacent 31 Somersall Lane due to large wound and infected with fungus. The crown reduction of one Horsechestnut outside 15 Somersall Lane due to branch failure and one Oak outside 46 Somersall Lane which is infected with the fungus Ganoderma which causes root decay. 3 Oak trees are also to be dead wooded and one Sycamore is to have the basal growth removed.</p>	<p>Agreement to the felling of 1 tree and pruning of 6 trees. The felling/pruning of the trees will have some effect on the amenity value of the area however in mitigation 2 new Oak trees are to be planted in the grass verge near to the trees outside 31 & 64 Somersall Lane.</p>	<p>16/10/17</p>
<p>CHE/17/00698/CA The felling/pruning of trees for Mrs Margaret Speed at Chesterfield Labour Club, Saltergate.</p>	<p>The trees are within the Town Centre Conservation Area and the applicant wishes to fell one dead Elm tree and one Ornamental fruit tree which is suppressed with Ivy. The applicant also wishes to reduce the vegetation along the eastern boundary back to hedge height and prune back one Laburnum and one Cherry which is encroaching onto the fire escape on the western boundary.</p>	<p>Agreement to the felling of two trees and the reduction of vegetation along the eastern boundary and the pruning of two trees on the western boundary to clear the fire escape. The felling/pruning of the trees will have no adverse effect on the amenity value of the area.</p>	<p>16/10/17</p>

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AGENDA ITEM

APPEALS REPORT

MEETING: PLANNING COMMITTEE
DATE: 30TH OCTOBER 2017
REPORT BY: DEVELOPMENT MANAGEMENT AND
CONSERVATION MANAGER

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS

TITLE

LOCATION

Non exempt papers on files
referred to in report

Development Management
Section
Planning Service
Town Hall Chesterfield

1.0 PURPOSE OF REPORT

- 1.1 To inform Members regarding the current status of appeals being dealt with by the Council.

**PAUL STANIFORTH
DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER**

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact Paul Staniforth on 01246 345781.

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APPEALS

<u>FILE NO.</u>	<u>APPLICATION CODE & WARD</u>	<u>APPELLANT</u>	<u>CASE</u>	<u>MEMBER OFFICER</u>	<u>DATE REC</u>	<u>TYPE AND DATE</u>	<u>DECISION AND DATE</u>
2/4071	Moor ward	Mr D Revitt	10 Pottery Lane West Excavation of rear garden area – Enforcement Notice Ground c (works are permitted development)	Planning Committee	28/02/17	Written Reps	
2/1002	Rother ward	Mr M Kirby	CHE/17/00017/OUT Dwelling on land at 1 Branton Close – Refusal	Planning Committee – against officer advice	27/4/17	Written Reps	Allowed 03/10/17 see appendix A
2/2404	Lowgates & Woodthorpe	Mr and Mrs Hall	CHE/16/00804/FUL – Conversion of Goat Shed to Holiday let at 23 Bridle Road – Refusal	Officer Delegated	30/4/17	Written Reps	Dismissed 16/10/17 see appendix B
2/310	West ward	Mr Keith Aston	CHE/17/00119/MA – Material Amendment of plots 1 and 2 at 246a Ashgate Road - Refusal	Planning Committee – against officer advice	2/5/17	Written Reps?	Allowed 09/10/17 see appendix C
2/1192	Brockwell ward	Mr S Priestnall & T Cordin	CHE/16/00591/FUL – Redevelopemnt of 46 Newbold Road (The shrubberies) for 13 dwellings – Refusal	Planning Committee – against officer advice	22/5/17	Written Reps	Dismissed 28/09/17 see appendix D
2/1286	Walton ward	Mr A James	CHE/17/00240/FUL – Dwelling on land adj 2 Hazel Drive – Refusal	Officer Delegated	22/6/17	Written Reps	

2/2880	St Leonards ward	Mr Baljinder Singh-Sall	15 Lincoln Street Raising ground levels and use. Enforcement Notice (Grounds (c) and (g) – There has been no breach and time for compliance is too short	Planning Committee	30/06/17	Written Reps	
2/3991	Hasland ward	Mr N Chadwick	2 York Street Two vending machines . Enforcement Notice (Grounds (a), (b), (c) and (f). Planning permission ought to be granted, the matters alleged have not occurred, there has been no breach and the steps required are excessive.	Planning Committee	09/08/17	Written Reps	
2/6147	West ward	Mr M Hopkinson	CHE/17/00365/FUL – Second Storey Side extension at 31 Queen Mary Road - Refusal	Officer Delegated	22/09/17	Written Reps	

Appendix A

Appeal by Mr M Kirby

Site at 1 Branton Close, Boythorpe, Chesterfield.

CHE/17/00017/OUT

2/1002

1. Planning permission was refused on 4th April 2017 for a dwelling joining 1 Branton Close, Boythorpe. The application was refused by planning committee against the advice of officers for the following reasons:
2. It is considered that the introduction of a built form on this current piece of open grass verge would be at odds with the character of the area, where the prevailing streetscene is set back and includes a consistent building line. Furthermore the visual impact of the development proposed would be detrimental to the character and appearance of the streetscene, which is enjoyed by local residents as an area of open grass verge, and subsequently it is considered for these reasons the development is contrary to the provisions of policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031.
3. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
4. The main issue is the effect of the development on the character and appearance of the area. The appeal site comprises part of the side garden to No 1 Branton Close and an adjoining grass verge. It is a corner plot next to the junction between Branton Close and Grindlow Avenue. The indicative layout shows the dwelling attached to the western side of No 1 Branton Close. This would form a short terrace that would extend out into Grindlow Avenue. The dwelling would sit at a transitional point between the stepped building line formed by Nos 16-26, and the building line established by the 3 storey Potters Place development. The building line established by Nos 16-26 is stepped towards the appeal site, and the development would be broadly consistent with this. It would also be next to the junction with Branton Close which would provide a more open setting to the north. In this position, a minor encroachment out into Grindlow Avenue would not be out of character with the surrounding area.

5. The development would incorporate part of the existing grass verge and would lead to some loss of openness in this regard. However, verges of this depth are not typical of the surrounding area. The verge is also not of high environmental value or large enough to form a useable open space. A narrower verge could be retained at reserved matters stage that would be comparable to the grass verges at the far end of Branton Close, and the appellant has indicated their willingness to accommodate this. Similarly, the details of any boundary treatments could be controlled at reserved matters stage.
6. For these reasons, the inspector concluded that the development would not significantly harm the character or appearance of the area. It would therefore accord with Policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031 (2013). These Policies seek to ensure, amongst other things, that development should identify, respond to, and integrate with the character of the site and its surroundings.
7. In respect of other matters the inspector commented that the traffic and parking associated with a single dwelling would not be significant. Adequate parking and access arrangements could be secured at reserved matters stage. The issue of impact on property values had also been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

8. The Council suggested a number of conditions, some of which the inspector edited for clarity and enforceability. In addition to the standard outline conditions, a condition requiring that site investigations be undertaken prior to the commencement of development has been imposed. This is necessary in order to address any coal mining legacy issues on the site. A condition requiring the submission and approval of details relating to drainage is necessary in order to comply with development plan policy. These are pre-commencement conditions as the findings of the site investigations, and the design of any drainage scheme, could affect the subsequent development works. A further condition requires that the position of the new dwelling allow for a 2.4 x 43 metres visibility splay from

Branton Close on to Grindlow Avenue. Whilst scale and layout are reserved matters, it is important that the position of the dwelling does not prejudice highway safety. A condition has also been imposed restricting the hours of construction, which is necessary in order to protect the living conditions of the surrounding properties.

9. The Council also suggested a number of other conditions. However, these address matters that are reserved, including those relating to land and floor levels (scale/appearance), materials (scale/appearance), and access and parking arrangements (appearance/access). Such conditions are therefore not appropriate at this stage.

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until a scheme of site investigations to identify any coal mining legacy issues has been submitted to and approved in writing by the local planning authority. The approved scheme shall be undertaken prior to the commencement of development and a report of the findings, including any necessary remedial works, shall be submitted to and approved in writing by the local planning authority. Any remedial works shall then be implemented prior to the commencement of development.

- 5) No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the local planning authority.
- 6) The position of the dwelling shall allow for a 2.4m x 43m visibility splay from Branton Close on to Grindlow Avenue.
- 7) Demolition or construction works shall take place only between 8:00am and 6:00pm Monday to Friday, 9:00am to 3:30pm on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays. The term "work" will also apply to the operation of plant, machinery and equipment.

Appendix B

Appeal by Mr and Mrs Hall

Site at 23 Bridle Road, Woodthorpe, Chesterfield.

CHE/16/00804/FUL

2/5617

1. Planning permission was refused on 2nd February 2017 for conversion of a goat shed /stable into a holiday let at 23 Bridle Road, Woodthorpe.
2. The reason for refusal was:

The goat shed the subject of this application was consented in January 2014 with a further extension to it approved in March 2016. The structure lies within the Open Countryside as protected by saved policy EVR2 of the Local Plan where it is concluded the proposals are contrary to the provisions of this policy. The Council is currently able to demonstrate a 5 year supply of housing and the applicant has failed to provide any evidence to show that efforts have been made to secure re-use of this relatively new rural building which furthers employment or that an employment use would be inappropriate in the building.

Having regard to further criteria of policy EVR2 the location of the proposed development is not within reasonable walking and cycling distance of a centre or any grouping of key services and does not meet criteria a of this same policy. In addition there would be a degree of 'urbanisation' to the area as a result of the formation of the driveway and vehicle parking to the development which would also be contrary to criteria e. It is therefore considered that despite the absence of any evidence to meet the first requirements of policy EVR2; the subsequent detailed assessment criteria of the same policy are failed and the conclusion reached is that the development proposals are also contrary to these provisions. In further context of policies CS1, CS2, CS9 and CS18 of the Core Strategy the site is not considered to be within a reasonable walking distance from a centre and is located on a country lane where there are no pedestrian walkways. In order to achieve an appropriate means of access to the development proposal which is appropriate in highway safety

terms conflict with policies CS2, CS9 and CS18 of the Core Strategy arise from the necessity to remove important hard and soft landscaped feature of the country lane (inc. protected trees) which would further erode and urbanise the character of the area which is contrary to these development plan policies and the wider aspirations of the National Planning Policy Framework.

3. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
4. The main issues are, firstly, the effect of the development on the character and appearance of the area and, secondly, whether the development would accord with development plan policy and national policy guidance relating to development in rural areas.

Character and appearance

5. Bridle Road is a pleasant country lane that is flanked by trees and hedgerows along most of its length. It is bounded in part by a traditional stone wall, which runs across the frontage of the appeal site. A number of mature trees are also positioned along the site frontage and are subject to a Tree Preservation Order. The development proposes the creation of a new access onto Bridle Road. This would involve the realignment and removal of a section of the existing stone boundary wall. The boundary wall contributes significantly to the 'country lane' character of this part of the road, and its realignment and partial demolition would be harmful in this regard. In addition, the Highway Authority has commented that a number of protected trees along the site frontage would need to be removed in order to create a safe access point with an adequate visibility splay. This has not been disputed by the appellant. These trees are tall, mature, and in good condition and they contribute to an attractive environment along Bridle Road. In the inspectors view, they are of high amenity value and their removal would result in further harm to the character and appearance of the area.

6. The goat shed building already exists and is seen in the context of the adjacent group of dwellings. The proposed parking area, driveway, and any associated domestic paraphernalia, would also be partly screened by the boundary wall which could be supplemented with additional planting. In this context, the development would not lead to an undue urbanisation of the site or result in a significant encroachment into a strategic gap.
7. On this basis the inspector concluded that the development would significantly harm the character and appearance of the area. It would therefore be contrary to the relevant sections of Policies CS2, CS9 and CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031 (2013). These policies seek to ensure, amongst other things, that new development responds to and integrates with the character of the site and its surroundings and conserves local distinctiveness.

Development in rural areas

8. The appeal site is located within the Open Countryside, and is therefore subject to saved Policy EVR2 of the Replacement Chesterfield Borough Local Plan (2006). This policy requires that proposals to convert rural buildings to housing be supported by evidence to show that efforts have been made to secure a re-use which furthers employment. This Policy broadly accords with national policy guidance in force when the Local Plan was adopted which expressed a preference for re-use of buildings in the countryside for economic development purposes.
9. The National Planning Policy Framework (“the Framework”) was published after Policy EVR2 was adopted. Paragraph 215 of the Framework states that due weight should be given to relevant policies in earlier plans according to their degree of consistency with the Framework. In relation to the conversion of existing buildings in rural areas, the Framework does not restate the previous preference for economic re-use. Accordingly, Policy EVR2 is inconsistent with the Framework in this regard, as it is more restrictive.

10. The site is within a short walking distance of a bus stop on Norbriggs Road with services to Chesterfield and Bolsover. It is also around a 10 minute walk along a good footpath to a public house, convenience store, and a bus stop served by frequent services, located on Lowgates. Moreover, it is near to footpaths that lead to Poolsbrook Country Park and out into open countryside. In the inspectors view, it is in an accessible location for a development of its type. Whilst there are no pedestrian walkways along this part of Bridle Road, the inspector noted that it is a dead end that serves only a small number of properties. It therefore has very limited light traffic along it.

11. For the above reasons, the inspector concluded that the development would accord with national policy guidance relating to development in rural areas. In this regard the Framework is a significant material consideration that outweighs any failure to comply with part of Policy EVR2 of the Replacement Chesterfield Borough Local Plan (2006). The development would also be in an accessible location and would therefore comply with the relevant sections of Policies CS1, CS2, CS9 and CS18 Chesterfield Local Plan: Core Strategy 2011-2031 (2013). These policies seek to ensure, amongst other things, that new development maximises opportunities for walking and cycling.

Appendix C

Appeal by Mr Keith Aston

Site at plots 1 and 2, 246A Ashgate Road, Chesterfield.

CHE/17/00119/MA

2/310

1. Planning permission was refused on 26th April 2017 under s73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted. The application had sought planning permission for residential development – reserved matters application CHE/13/00507/OUT without complying with a condition attached to Permission CHE/15/00514/REM dated 27th October 2015. The condition in dispute was No 1 which states that:

All external dimensions and elevational treatments shall be as shown on the approved plans, 15/532/2 Rev A, 15/532/10, 15/532/20, 15/532/30, 15/532/40 and 15/532/50, with the exception of any approved none material amendment.

2. The application sought retention of plots 1 and 2 on the site at 246a Ashgate Road as built. The application was refused by planning committee against the advice of officers for the following reasons:

In the opinion of the local planning authority the design of the buildings constructed on plots 1 and 2 are inappropriate having regard to the details and proportions of the windows and the additional brickwork between the upper floor windows and eaves level. The consequential increased eaves and ridge heights present an overbearing impact to the detriment of the amenities of the neighbours to the east on Churston Road. The local planning authority consider therefore that the development does not respond to and integrate with the character of the local area and is therefore at odds with policies CS2 and CS18 of the Core Strategy 2011 - 2031 and the National Planning Policy Framework.

3. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
4. The main issues are the effect of the amendments on, firstly, the character and appearance of the host properties and the surrounding area and, secondly, the living conditions of neighbouring occupiers with regard to an overbearing effect.

Character and appearance

5. The proposed amendments include an increased eaves and ridge line height to the dwellings at plots 1 and 2, and a reduction in the size of the first floor windows. In combination, these amendments result in taller dwellings with a greater expanse of brickwork between the first floor windows and the eaves. The amendments to the design of the dwellings are most apparent when viewed from the rear gardens of the properties fronting Churston Road. The reduction in the size of the rear facing first floor windows results in a more squat appearance compared to the original window design. However, the difference in size is limited and does not harm the appearance of the dwellings in the inspectors view. Whilst the amendments result in a larger expanse of brickwork above the first floor rear windows, this was also a feature of the approved scheme and in part reflects the 2.5 storey design of the properties. The amendments result in only a small increase in this expanse of brickwork, which in any case has limited visibility from public vantage points. The proposed amendments also increase the height of the dwellings by 211 mm according to the submitted plans. However, this is a relatively modest increase that is not readily perceptible in the surrounding area. Whilst the Council state that the previously approved heights were regarded as maximums, it is unclear why this is so, or what harm arises from the additional height in this case.
6. The surrounding area is not uniform in character and includes a number of different property styles and types. The appeal development also occupies an atypical backland plot. In this context, the amendments would not be at odds with the character of the surrounding area.

7. For the above reasons, the inspector concluded that the amendments do not significantly harm the character and appearance of either the host properties or the surrounding area. They therefore accord with Policy CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031 (2013). This policy seeks to ensure, amongst other things, that development responds to and integrates with the character of the site and its surroundings.

Living conditions

8. The dwellings at plots 1 and 2 are around 32 metres from the rear of the properties fronting Churston Road (according to the submitted drawings). At this distance, the increased height of the dwellings and the greater expanse of brick work above the first floor windows are not readily perceptible. The amendments do not significantly reduce the outlook of these properties in the inspectors view. Separately, the proposed reduction in the size of the rear facing first floor windows would provide a modest privacy benefit to these properties, compared to the previously approved scheme.
9. For the above reasons, the inspector concluded that the amendments do not significantly harm the living conditions of neighbouring occupiers with regard to an overbearing effect. They therefore accord with Policy CS2 of the Chesterfield Local Plan: Core Strategy 2011-2031 (2013). This policy seeks to ensure, amongst other things that new development has an acceptable impact on the amenity of adjoining occupiers.
10. In allowing the appeal the inspector substituted condition 1 with the following new condition:
 - 1) All external dimensions and elevational treatments shall be as shown on the approved plans, 15-532-05D, 15-532-21B and the Cross Section Drawing Plot 2 to No 11 Churston Road, with the exception of any approved non material amendment.

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Appendix D

Appeal by Peppermint Grove Ltd Site at 46 Newbold Road, Chesterfield.

CHE/16/00591/FUL

2/1192

1. Planning permission was refused on 11th January 2017 for the development of 13 residential units and ancillary works on the site of 46 Newbold Road. The application was refused by planning committee against the advice of officers for the following reasons:

In the opinion of the local planning authority the loss of the existing building will result in the erosion of the character of the area to the detriment of the appearance of the local area. Furthermore the loss of protected trees will be detrimental to the character of the area having regard to the ecological and amenity contribution they provide. The local planning authority consider therefore that the development does not respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context and will therefore be at odds with policies CS9 and CS18 of the Core Strategy 2011-2031.

2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
3. The main issues are the effect on the character and appearance of the area, including trees protected by a Tree Preservation Order, and the effect on biodiversity.

Character and appearance – including protected trees

4. The appeal site consists of previously developed land accessed from the southern side of Newbold Road (B6051). Land levels within the site gently rise from the comparatively wide frontage onto Newbold Road which is characterised by a line of protected trees behind a boundary wall. There are additional groups of trees further into the site, some of which are protected, with the tree cover gradually reducing with distance from the frontage. A vacant building (No 46), which was formerly used as NHS offices, is sited close to the

boundary with Nos. 43 and 45 Cobden Road and No 48 Newbold Road. There are also areas of hardstanding with marked parking bays and landscaped areas towards the rear of the site. Predominantly residential properties are located along Newbold Road and Cobden Road to the west, with school buildings and their grounds adjoining the other boundaries of the site.

5. The existing building (No 46) consists of a two storey villa style property with outrigger elements characterised by timber sash windows, bay windows, porticos and other architectural detailing from the late Georgian and early Victorian periods. The building is not statutorily listed or within a Conservation Area, but is a non-designated heritage asset as it has been included within the Council's draft local list with its significance derived from villas of its style being increasingly uncommon in Chesterfield. However, since the determination of the application subject to this appeal, the Council has subsequently granted prior approval on 3 April 2017 for the demolition of No 46 through permitted developments rights conferred by Schedule 2, Part 11, Class B of the GPDO1. The building had not been removed at the time of my visit, but the evidence before me indicates that there is a realistic prospect that its demolition would take place, irrespective of the outcome of this appeal. Consequently, the loss of the building in terms of its local significance would be outweighed by the fallback position in this instance. The removal of the existing building is not, therefore, an influential factor upon the outcome of this appeal.

6. The existing trees within the site make an important contribution to the verdant character of the area, particularly along the Newbold Road frontage. An Arboricultural Method Statement provided by the appellant and accompanied by a Tree Constraints Plan, Tree Protection Plan and Landscape Masterplan, identified 36 trees and two groups of varied species and sizes. The proposal requires the removal of a total of 29 trees, including 11 trees (T2, T4, T7, T9, T13, T14, T15, T16, T17, T18, T19) which are protected by Tree Preservation Order 133 1994 (TPO). Six trees protected by the TPO (T1, T3, T5, T6, T8, T10) are proposed to be retained, whilst two protected trees (T11 and T12) are recent replacement Oak trees which are proposed to be relocated.

The proposal would also include the planting of 16 new trees within the site. Based upon the evidence removal of two Hawthorn trees (TPO ref T2 and T4) located along the frontage adjacent to the boundary wall and to the west of the access would not be harmful. Those trees are either dead or dying due to overcrowding by two Beech trees (T1 and T5) and a Whitebeam (T3) tree which are generally in good condition and afford high visual amenity to the frontage. Two Hawthorn trees (T7 and T9) on the frontage to the eastern side of the access, together with a further Hawthorn (T13) and a Sycamore (T14), are also suitable for removal due to their similarly poor condition arising from overcrowding. Two Beech trees (T6 and T10) that have high visual amenity value and a Whitebeam (T8) would be retained along that section of the frontage and when taken together would maintain the verdant character of that part of the site. A Weeping Ash (T16) located to the south east of the existing building, together with a Cherry (T18) and Sycamore (T19) towards the western boundary wall and the rear of the site, would require removal due to their location within the footprint of the proposed development. Each of those trees had signs of decay and poor form which suggests a limited life expectancy. As the visual amenity of T16, T18 and T19 is considerably less than the frontage trees due to their set back position within the site, their removal would not be harmful when taking account of new planting within the site and along the southern boundary. An Oak (T15) and a Sycamore (T17) despite being in comparatively good condition, afford limited amenity from public vantage points due to their set back position within the site, with some signs of stress to the Oak due to the proximity to the existing driveway. In such circumstances, on balance, the removal of T15 and T17 would not be harmful subject to appropriate tree replacement and landscape planting within the site.

7. The inspector considered the views expressed by all parties in terms of the siting of the dwelling and driveway denoted as Plot 13, including those relating to amendments submitted in response to initial concerns raised by the Council's Tree Officer. Based upon the evidence the dwelling and driveway of Plot 13 would be within the required root protection area (RPA) of the Whitebeam (T3) and Beech (T5) trees as indicated on the Tree Protection Plan (drg.no. TSC 03 rev B)

and confirmed by the Arboricultural Method Statement dated November 2016. Having regard to BS 5837:20122, the inspector was satisfied that the reduction of the canopy of the T3 tree, together with appropriate construction methods for hard surfacing of the access road and driveway within the RPAs would be achievable without causing a significant adverse impact upon the T3 and T5 trees (or the T6 tree nearby). In reaching those findings, the inspector observed that a tarmac pathway runs across the RPA of the T3 and T5 trees, with the RPA of T5 (together with T6) also constrained by hardstanding associated with the existing main access road at a reduced land level.

8. Notwithstanding the above, it is reasonable that the siting of the dwelling on Plot 13 would require deeper excavations, including for foundations, than those which have taken place for hard surfacing of the existing pathway and those which would be required to construct the driveway and access. The footprint of the dwelling would include sections of the RPAs of both T3 and T5 trees with no evidence to demonstrate that special engineering measures to construct the building within the RPA, including any foundations, would be feasible. In such circumstances, the siting of the dwelling on Plot 13 would be detrimental to the long term health of both the T3 and T5 trees, particularly as protection of their roots within the site should be prioritised given the existing constraints of the immediately adjacent boundary wall and Newbold Road highway infrastructure. The Whitebeam (T3) and Beech (T5) are mature trees which offer high visual amenity to the site due to their size, form, height and prominence from public vantage points and they are likely to be susceptible to development impacts. The loss or removal of either tree as a result of the development would have a considerable impact upon the verdant character of the Newbold Road frontage of the site.
9. The development, therefore, would cause significant harm to the character and appearance of the area given that there is no evidence before me that the T3 and T5 trees would be otherwise unlikely to survive on site for many years. The removal of the existing tarmac pathway and replacement with soft landscaping, together with the proposed tree protection measures such as protective fencing would not overcome the

harm identified. Furthermore, the constrained separation distance between Plot 13 and the boundary wall would limit the potential for suitable replacements along the site frontage if T3 or T5 were removed or lost.

10. The Oak trees (T11 and T12) which replaced a Willow and Weeping Ash in the original Order have been recently planted. Those trees would be capable of relocation to a different part of the site frontage to avoid any adverse impact on their condition or longevity. The remaining trees within the site which are not protected by TPO and are proposed to be removed are generally of low quality, small in size and with poor form. Consequently, those trees could be removed without harm to the character and appearance of the area, given the new tree planting proposed. However, the absence of concern in those respects does not outweigh the harm identified.
11. Aside from the verdant nature of the site, the character of the area is influenced by a diverse mix of predominantly large detached and semi-detached properties with a broad consistency of front building lines, particularly along Cobden Road. The properties immediately adjacent to the site adjoining Cobden Road consist of two storey properties with a mix of architectural features and some modern infill developments, that have a similar scale, form and materials within confined plots and a noticeable transition of building heights that follow the rising land levels toward the south. The properties along Newbold Road opposite and to the east, are visually prominent and display a range of different designs, height, scale, form, proportions and use of materials. The varied style, proportions and height of properties in the surrounding area, including some modern school buildings to the south, offer an opportunity for original and innovative design of built form whilst complementing local distinctiveness.
12. The contemporary design of the predominantly one and a half storey development of detached, semi-detached and terraced properties would be laid out in a courtyard arrangement and accessed from a single driveway from the main access. The development would differ from the predominant design, scale and more linear pattern of development with shallow frontages

onto Cobden Road and opposite on Newbold Road. However, the existing building within the site and to the west are typically well screened from the road frontage by walls and groups of trees and the pattern of built form would not be dissimilar to the grouping of school buildings to the south relative to Cross Street and at the rear of Cobden Road. The development would retain some mature trees along the frontage, which irrespective of the impact of Plot 13 upon some protected trees and proposed alterations to boundary walls, would provide some filtering of views. Consequently, the set back position of the courtyard development would limit its influence upon the Newbold Road frontage, including views along the access. The development would be glimpsed between properties on Cobden Road and would be visible when approaching the site along Newbold Road from the east, due to the set back position of an adjacent building (No 44) and reduced tree screening towards the rear of the site. However, the modest scale of buildings would be viewed in the context of a diverse group of buildings of different styles, including glimpses of modern school buildings in similar backland positions. In such circumstances, the design, scale, form, massing and materials of the proposed development would not be viewed as out of place and would not, in itself, harm the character and appearance of the area. Existing views from the rear elevations and rear gardens of the adjoining properties facing Cobden Road and Nos. 44 and 48 Newbold Road would be altered by the development. However, such a change is an inevitable consequence of any new development located adjacent to residential properties and is not reason in itself to withhold planning permission. However, the absence of concern in that respect is a neutral factor.

13. The inspector concluded that the development would result in significant harm upon the character and appearance of the area, due to the incompatible siting of Plot 13 which would have a harmful effect upon the health and longevity of protected Whitebeam (T3) and Beech (T5) trees that contribute high amenity value to the Newbold Road frontage. The proposal, therefore, would conflict with Policies CS9 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031 (CS), adopted July 2013. When taken together the policies seek that all development should identify,

respond to and integrate with the character of the site and surroundings and the local distinctiveness of its context, including tree cover and an attractive interface between development boundaries and their surroundings. The policies are consistent with the National Planning Policy Framework (the Framework).

Biodiversity

14. The appellant provided an ecology scoping report dated July 2016, followed by a revised ecology scoping survey dated December 2016. The Council have not provided any contrary evidence. The surveys found no evidence of roosting bats within the existing building. The inspector was satisfied that the building has negligible roosting value for bats despite spaces between roof tiles and soffits given its urban location and detachment from foraging habitats for bats. In addition, the method of demolition of the building, including roof removal, could be suitably controlled to minimise the risk of harm to bats. Furthermore, based upon the evidence, the trees to be removed have low or negligible suitability for bat roosts. In that context, the risk of harm to bats arising from tree removal could be suitably mitigated by requiring further climbing inspections and the installation of bat boxes on trees to be retained. External lighting within the site could also be controlled to prevent adverse effects on bat commuting or foraging corridors.
15. The trees within the site provide a suitable habitat for nesting birds. However, any impact of the proposal could be appropriately mitigated by restricting removal and pruning to periods outside of the main nesting season, together with the use of bird boxes and appropriate landscape planting. The grassland vegetation which covers a significant proportion of the site is a suitable habitat for reptiles. However, the site is isolated from other areas of suitable habitat and there are no waterbodies in close proximity. It is, therefore, unlikely that Great Crested Newts are present within the site or would be affected by the development. No evidence of badgers was found on or adjacent to the site.

16. The inspector concluded that the development would not have a harmful effect on biodiversity, including protected species, subject to the imposition of conditions if the appeal were to be allowed. The proposal, therefore, would not conflict with Policies CS9 and CS18 of the CS or the Framework in that respect.

Other Matters

17. The proposal would deliver social and economic benefits in an accessible location by providing 13 new homes on previously developed land in relatively close proximity to Chesterfield Town Centre and other services and facilities. In that respect, the development would contribute to meeting the housing requirements of Chesterfield, whilst supporting local services, businesses and the employment market. There would also be local economic benefits arising from the construction activity required to deliver the development.
18. The development would provide safe and suitable access to the site for all people utilising an existing access onto Newbold Road. Traffic movements when compared to the previous use of the site would not be significant and would not have a severe residual cumulative impact upon the transport network. Adequate parking would be provided for each dwelling on driveways and integral garages. Furthermore, alterations to the existing footway crossing, layout of turning areas within the site, the gradient of the driveway, restrictions upon gates and retention of parking spaces would be capable of being dealt with by conditions. Consequently, the development would not have a detrimental impact upon highway or pedestrian safety.
19. Adjoining properties are generally at raised land levels relative to the site. The removal of the existing building and replacement with a one and half storey development would reduce the scale, bulk and massing of built form visible from Nos. 43 and 45 Cobden Road and No 48 Newbold Road. The development would introduce built form closer to the habitable windows and rear gardens of Nos. 35-41 (odds) Cobden Road and No 44 Newbold Road. However, the difference in slab and garden levels of those properties, together with the modest scale of buildings proposed would prevent any adverse impact in terms of outlook, privacy and light despite

the close proximity of built form to boundaries. Consequently, the development would not have a detrimental impact upon the living conditions of occupiers of neighbouring properties.

20. The development in Flood Zone 1 would not be at an unacceptable risk of flooding or increase the risk of flooding to surrounding properties as surface water and foul water drainage could be dealt with by condition. There is no substantiated evidence that the development would have any adverse impact in terms of land stability, ground conditions or local infrastructure.

Planning Balance

21. The proposal would not have a harmful effect upon biodiversity and the inspector attributed positive weight to the social and economic benefits arising from the development of 13 new homes in an accessible location close to Chesterfield Town Centre. However, the harm upon the character and appearance of the area arising from the incompatible siting of the dwelling on Plot 13 resulting in a harmful effect on the long term health and longevity of Whitebeam (T3) and Beech (T5) trees on the Newbold Road frontage, is significant and overriding. The absence of harm in all other respects is a neutral factor. Consequently, the proposal would not result in sustainable development when considered relative to the development plan and the Framework as a whole.
22. The Unilateral Undertaking signed by the applicant includes planning obligations to secure contributions to public open space and public art in seeking to accord with CS policy requirements. However, as the appeal is to be dismissed based on its substantive merits, it is not necessary for the inspector to look in detail at these obligations as they would not alter the outcome of this appeal.

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FOR PUBLICATION Agenda Item 9

ENFORCEMENT REPORT

MEETING: PLANNING COMMITTEE
DATE: 30TH OCTOBER 2017
REPORT BY: LOCAL GOVERNMENT AND REGULATORY LAW MANAGER
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD: As listed in the report

FOR PUBLICATION

TITLE: D255 and Non-exempt papers (if any) on relevant files

BACKGROUND PAPERS

LOCATION: LEGAL SERVICES

1.0 PURPOSE OF REPORT

1.1 To update members, and get further authority, on formal enforcement.

2.0 BACKGROUND

2.1 The table summarises formal planning enforcement by the Council.

3.0 INFORMAL ACTION

3.1 Formal enforcement is a last resort, with most planning problems resolved without formal action (in accordance with government guidance). More information on informal enforcement is available from the Planning Service.

4.0 MORE INFORMATION ABOUT THE TABLE

4.1 A summary of the main types of planning enforcement action available to the Council and penalties for non compliance is available from Legal Services.

5.0 RECOMMENDATION

5.1 That the report be noted.

GERARD ROGERS
LOCAL GOVERNMENT AND
REGULATORY LAW MANAGER

PAUL STANIFORTH
DEVELOPMENT MANAGEMENT
& CONSERVATION MANAGER

Further information on this report from Gerard Rogers, Legal Services
Tel 01246 345310 or email gerard.rogers@chesterfield.gov.uk

ENFORCEMENT REPORT

Enforcements currently Authorised: 10

20 October 2017

Address	Authorised <small>days from</small>	Breach	CHE/	Issued <small>days to issue</small>	Effective <small>days to (-) /from</small>	Comply <small>days to (-) /from</small>	Notes	update <small>last update</small>	Ward
Enforcement Notice		<i>Total currently Authorised: 8 Authorised to Issue Average: 40.25 days</i>							
Hady Lane	15/10/12 <small>1,831</small>	occupation of land					Resubmitted application for relocation site granted 06/10/14, and details on conditions submitted. Outcome of Village Green Inquiry - DCC rejected the applications on 25/07/16. Currently moving to authorised site.	<input type="checkbox"/> <small>11/11/16</small>	Ha
Lincoln Street	13/03/17 <small>221</small>	use of materials to extend hardsurfacing			17/05/17 <small>65</small>		Use of materials to extend hardsurfacing. Appeal.	<input type="checkbox"/> <small>17/07/17</small>	
Lincoln Street	13/03/17 <small>221</small>	change of use from agriculture to storage of scrap vehicles			17/05/17 <small>65</small>		Change of use from agriculture to storage of scrap vehicles. Appeal. Vehicles removed.	<input checked="" type="checkbox"/> <small>09/10/17</small>	
Pottery Lane West	10 09/01/17 <small>284</small>	excavation - engineering works			25/01/17 <small>16</small>		Appeal.	<input type="checkbox"/> <small>02/05/17</small>	

Details at 20 October 2017

Address		Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Tapton View Road	47	24/04/17 179	unauthorised extension	16/00648				Application for retention dismissed on appeal. Application for changes to extension expected.	<input type="checkbox"/> 20/09/17	SH
Walton Works		27/06/16 480	use for war and horror style games					Cease war and horror style games at weekends and after 18:00 hours, and pyrotechnics at any time. 12/12/16 Committee approval for Section 106 planning obligation to regulate unauthorised use. Comments on draft from agents.	<input type="checkbox"/> 05/06/17	Wa
York Street	2	17/07/17 95	2 vending machines		01/08/17 15			2 unauthorised vending machines. Issued. Appeal.	<input type="checkbox"/> 07/09/17	Ha
York Street	2	09/10/17 11	conversion and extension of roof space						<input type="checkbox"/>	Ha

Stop Notice

Total currently Authorised: 1 Authorised to Issue Average: days

Address	Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Walton Works	27/06/16 480	use for war and horror style games of game play					See notes for Enforcement Notice.	<input type="checkbox"/> 03/03/17	Wa

TPO Prosecution

Total currently Authorised: 1 Authorised to Issue Average: days

Newbold Road	04/07/17 108	damage / removal of trees					Offences by multiple parties. First court date 02/11/17	<input checked="" type="checkbox"/> 04/07/17	N
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Action authorised by Committee except Breach of Condition, Planning Contravention, Section 215 Notices, Advertisement Discontinuance, prosecutions and urgent action which are authorised by officers

Key to Ward abbreviations: BNW Barrow Hill and New Whittington • BN Brimington North • BS Brimington South • B Brockwell • D Dunston • Ha Hasland • Hb Holmebrook • HI Hollingwood and Inkersall • L Linacre • LG Loundsley Green • LW Lowgates and Woodthorpe • MP Middlecroft and Poolsbrook • Mo Moor • N Newbold • OW Old Whittington • R Rother • SH St Helens • SL St Leonards • Wa Walton • We West

FOR PUBLICATION

REVIEW OF DELEGATION SCHEME AND PLANNING COMMITTEE PROCEDURES

DATE: 30TH OCTOBER 2017

REPORT BY: DEVELOPMENT MANAGEMENT AND
CONSERVATION MANAGER

WARD: ALL

1.0 PURPOSE OF REPORT

1.1 To consider a review of the Councils agreed delegation scheme relating to application determination and planning committee procedures including public speaking and site visits.

2.0 BACKGROUND

2.1 Chesterfield Borough Council has an agreed delegation scheme which is part of its Constitution and which was last reviewed in 2009 along with its guidance documents relating to the operation of planning committee, namely:

- Your View Your Voice – speaking at Planning Committee;
- Planning Committee site visits
- Planning Committee procedures

2.2 In May 2017 planning committee expressed concerns that few items were being reported for their consideration inferring therefore that some decisions were perhaps being taken by officers outside the agreed delegation scheme and which should actually have been reported to planning committee. No examples could however be given at the time however in response it was agreed to undertake a review / refresh of the delegation scheme and the procedure notes referred to above.

3.0 GOVERNMENT APPROACH

3.1 Government advice in National Planning Guidance sets out the process and expectations on planning performance and decision making. It makes it clear that once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit unless a longer period is agreed in writing.

3.2 [Section 62B of the Town and Country Planning Act 1990 \(as amended\)](#) allows the Secretary of State to designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against [published criteria](#).

Those criteria relate to:

- the speed of decisions made by local planning authorities for applications for major and non-major development, measured by the percentage of applications that have been determined within the statutory period or such extended time as has been agreed between the local planning authority and the applicant
- the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period)

If a local planning authority falls below the performance thresholds set out in the criteria it may be designated for its performance in relation to applications for major development, non-major development, or both.

3.3 [Section 101 of the Local Government Act 1972](#) allows the local planning authority to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority. The exercise of the power to delegate planning functions is generally a matter for individual local planning authorities, having regard to practical considerations including the need for efficient decision-taking and local transparency. It is in the public interest however for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area.

4.0 THE CURRENT DELEGATION SCHEME AND COMMITTEE PROCEDURES

- 4.1 The current agreed Delegation scheme sets out the framework for the split between officer decisions and those which need planning committee consideration. The scheme is arranged such that the committee considers those proposals which are more controversial or complex and which add value through planning committee consideration. This generally results in a more transparent decision being taken.
- 4.2 The agreed scheme says:
 P140D To determine all applications for planning permission EXCEPT for the following categories. These excepted categories are shown in column 1 of the following table, and are for determination by the planning committee. In some cases there is a qualification, shown in column 2. Where there is a qualification shown in column 2, applications within the scope of that qualification are for determination by the delegated officers

Col 1 - Planning Committee	Col 2 - Delegated Officers
Where the proposal is contrary to the policies of the adopted development plan.	Where the proposal is contrary to the development plan but <input type="checkbox"/> nevertheless accords with surrounding uses or <input type="checkbox"/> permission is to be refused
Where the proposal involves the Borough or County Council either as applicant or land owner and the scheme is of a major nature.	Where the proposal involves the Borough or County Council either as applicant or land owner and the scheme is of a minor nature.
Where the applicant is a councillor.	
Where the applicant is an officer of the Council who could be seen as having a direct input to, and therefore influence on, the application decision.	
Where the application is for telecommunications development and one or more objections is received.	Where the application is for telecommunications development and no objection is received.
Where the application is for dwelling/s or residential development where any objection	Where the application is for dwelling/s or residential development where any objection

is received.	is received, and <input type="checkbox"/> the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or <input type="checkbox"/> the only objection is from the Highway Authority and is not on the grounds of public safety or <input type="checkbox"/> the substance of all objections received does not constitute any material planning consideration
Where five or more objections are received to the proposal.	Where up to four objections are received to the proposal.
Where a Chesterfield Borough councillor makes a written or e-mail request for any application to be considered by planning committee.	
In any case where the Development Management and Conservation Manager considers that the application should be considered by planning committee.	

4.3 Analysis of last 2/3 years decisions:

Year	Total decisions	No of meetings	Committee decisions	% Delegation/Committee split
2015	489	17	62	87.3/12.7
2016	507	17	68	86.6/13.4
2017 so far	385	12	40	89.6/10.4

NB: the number of decisions referred to in the table excludes Prior Approvals; Non Material Amendments, Tree applications, CLOPUDs, Temporary Permitted Development submissions, EIA determinations and those applications which have been withdrawn.

4.4 Breakdown of committee decisions by category

Year	Committee decisions	Delegation scheme category	Site visits	speakers	Decisions contrary to officer recommendation
2015	62	2 Departures 1 Telecom 40 housing 13 5+ objection 7 Officer referred	61	68	4 1 Highfield Road 33 Westmoor Lane Walton Works Dunston Lane
2016	68	7 Departures 1 CBC applicant 46 housing 10 5+ objection 11 Officer referred	68	74	1 195 Old Hall Road
2017 so far	40	1 Departures 1 cllr referred 26 housing 10 5+ objection 6 Officer referred	38	45	7 1 Branton Close Oldfield farm The Shrubberies Troughbrook Road Thompson Street Rear Crispin PH x 2

5.0 BENCHMARK WITH OTHER DERBYSHIRE AUTHORITIES DELEGATION SCHEMES

- 5.1 In general all Derbyshire authorities have delegation schemes similar to Chesterfield whereby all planning application decision making is permitted by officers with a number of exceptions which are set out. Each authorities scheme is however subtly different but all such schemes include opportunities for local members to request a committee consideration with adequate reasons being provided and for officers to refer proposals to committee where it is considers to be of significant public interest and / or would have major impact on the environment for example.
- 5.2 Most schemes allow a number of objections before the item is turned into a committee item however the High Peak scheme does not base itself on the number of objections received in any of its categories but does set thresholds of site area, floorspace or number of dwellings proposed (15 and over).

- 5.3 The North East Derbyshire scheme has however more complicated elements in that it requires that where a delegation decision is to be taken contrary to any material representations received, detail of the intended decision has to be forwarded to the relevant ward councillors and chair of committee and they are allowed 48 hours to determine that the matter should be a committee matter. No response results in the default to an officer decision. It is also a requirement that full reasons for the decision are required.
- 5.4 Without exception all Derbyshire Authorities have procedures set out which allow the public to address planning committee and all schemes general follow similar limitations and processes however there are inevitable differences.

6.0 CONSIDERATION OF POTENTIAL FOR CHANGE

- 6.1 There is an opportunity to change the delegation scheme if it can be shown that it is in need of change.
- 6.2 For planning application determination an assessment suggests that the scheme is sufficiently refined and generally working well however there is an omission in that it does not refer to the opportunity for the local MPs to call a scheme to committee (with adequate reasoning) in the same way as local members can do. This opportunity should be included in an updated Delegation scheme.
- 6.3 It is also considered that some clarification/qualification would be useful in so far as the requirement to report to planning committee where 5 or more objections have been received. It is considered that this should be on the same basis as for objections to dwellings with a qualification that it can still be delegated to officers if the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or if the substance of all objections received does not constitute any material planning consideration. The opportunity should also be taken to include this in the Delegation scheme.
- 6.4 The determination of EIA development (scoping and screening) is currently delegated to the Economic Growth Manager under reference P760D. It states: *in connection with any application for planning permission, to carry out any function of the Council as local planning authority under the TCP (Environmental Impact Assessment) (England and Wales) Regulations 1999, including:*

- *determining whether any development is Environmental Impact Assessment development;*
- *requiring an Environmental Statement.*

This requires an update to make reference to the current regulations which are the TCP(Environmental Impact Assessment)(England and Wales) Regulations 2017 and to change the delegation to the Development Management & Conservation Manager.

- 6.4 The existing Delegation scheme is generally resulting in an appropriate split between delegation and committee and which generally accords with the 90/10 split which was advocated by the government and which was a few years ago a bvpi target.
- 6.5 In the meeting in May 2017 a request was made for consideration of the suggestion of a chair and vice chair meeting on all decisions to decide on which applications can be dealt with at officer level. Such a scheme would effectively result in no delegation to officers and which would not be appropriate. Decisions are taken on a daily basis and, with the current volume of applications, often results in many decisions being issued on day 55/56 (out of 56) and such a process would inevitably result in delay and decisions being taken beyond the timeframe having the consequence of resulting in poor performance on timely decision making. This would also result in regular (if not daily) meetings with the chair and vice chair which is not practical.
- 6.6 Planning committee business can vary from one meeting to the next with periods of less activity and those where many major or complex proposals are being reported. There have been meetings which have been cancelled because of lack of business and meetings where up to 10 items have been considered (30th August 2016). It is considered that there is no ideal number of items for committee consideration at each meeting. Evidence since 2015 shows that the committee most often includes between 3 and 4 items (average) and regularly takes between 1 and 2 hours to debate and decide the most controversial applications. Meetings usually finish between 17:00 and 18:00 however they have extended beyond this for the larger agendas.

- 6.7 It is agreed however that appropriate short breaks are introduced in a structured way into meetings which extend beyond 2 hours. Officers have recently dealt with a complaint from one attendee of planning committee earlier in the year (3rd April 2017) who alleged that the item she was attending for was not given appropriate and full attention and consideration by members because they had already considered 4 items over 2 hours without a break. For larger agendas it is also useful to predetermine the agenda order so that prior arrangements can be made to delay those arriving for later items to avoid wasting their time in attending for other items. This is already referred to in the agreed speaking at committee leaflet but will need to be built into the committee process and procedure guidance leaflet.
- 6.8 The updated leaflets showing the changes which have been made are attached at Appendix A

7.0 CONCLUSIONS

- 7.1 With addition of the opportunity for the local MPs to call matters to planning committee it is considered the right balance is already provided for within the delegation scheme and that there is no real need to change the scheme. As with most delegations schemes across Derbyshire, Members need to be more proactive to make sure they are aware of the applications which have been submitted in their wards and the opportunity for them to call matters to planning committee if they consider it appropriate and necessary. This opportunity in the scheme has generally not been used over the last 3 years however in respect of the item on Thompson Street (CHE/17/00344/FUL) Councillor Innes and Toby Perkins MP both requested it should be considered by planning committee.

8.0 RECOMMENDATIONS

- 8.1 That the delegation scheme be amended to include the following addition to the table:

<p>Where a local MP makes a written or e-mail request for any application to be considered by planning committee.</p>	
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8.2 That the general reference to objectors in the existing scheme be amended as follows:

Where five or more objections are received to the proposal.	Where up to four objections are received to the proposal or where <input type="checkbox"/> the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or <input type="checkbox"/> the substance of all objections received does not constitute any material planning consideration.
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8.3 That the delegation reference at P760D concerning EIA Development be changed to the **Development Management & Conservation Manager** and be updated to include the latest regulations as follows:

in connection with any application for planning permission, to carry out any function of the Council as local planning authority under the TCP (Environmental Impact Assessment) Regulations 2017, including:

- determining whether any development is Environmental Impact Assessment development;***
- requiring an Environmental Statement.***

8.4 That the Planning Committee site visits guidance note and the Planning Committee procedures guidance note be amended as attached at Appendix A and B of this report.

P STANIFORTH
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER

Further information on this report can be obtained from Paul Staniforth on 345781.

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Appendix A

Planning Committee Process and Procedure

1. Introduction

This guide is intended to assist members of the public in understanding the Planning Committee processes and procedures.

Under the Local Government Act 2000 the Council is required to establish committees to undertake non-executive functions. Most planning matters are not executive functions and under the law they cannot be discharged by Cabinet. The Planning Committee deals with planning and listed building applications and enforcement cases which fall outside of the agreed officer delegation scheme. Such applications generally are the more major and controversial schemes where consideration by committee is necessary.

2. Composition of the Committee

The committee comprises a total of ~~47~~¹⁵ elected Chesterfield Borough councillors. Membership is split to reflect the political division of the Council. The quorum of the committee is three members. All members and officers present will display a name plaque directed toward the public gallery and each member and officer present will introduce themselves to those members of the public in attendance. All members of the committee will have received training on planning matters and on the Planning Code of Conduct. Training for committee members is ongoing and a record of member training is kept.

3. Committee Meetings – When and Where?

Planning Committee meets every three weeks on a Monday afternoon starting at 15:00. The meetings take place in the Town Hall and are preceded by site visits where appropriate. On some occasions it is necessary to hold the committee meeting in a larger venue. Planning Committee agendas will be available five clear working days prior to the meeting in line with legal requirements. The dates of Planning Committee meetings together with past agendas and minutes are available on the Councils website at www.chesterfield.gov.uk. The report can be found under Council Services tab – Your Council – Committees, meetings and decisions.

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4. How the committee Meeting is conducted

Who chairs the meeting?

The meeting will be chaired by the Chair of Planning Committee unless he or she has declared an interest in an item or is absent. In those cases the appointed Vice Chair will preside. The order of business for the meeting may be changed at the discretion of the Chair for the convenience of the public in attendance or who wish to participate.

Who may attend?

The public may attend all meetings of the committee except when exempt or confidential information is being considered. In those cases the press and public are excluded. The public are allowed to listen to the debate about each

application and hear the decision that is made. In certain circumstances the public can speak at the committee meeting however they must have arranged this first with the planning officer before the meeting. More information on speaking at planning committee is included in a separate guidance leaflet, "my view, my voice". Apart from this the public are not permitted to take part in the meeting.

What does the Committee do?

The meeting will consider the following agenda items:

- Declarations of personal or prejudicial interest – Members and Officers
- Consideration of the minutes of the previous meeting
- Making decisions on planning applications
- An appeals report
- The delegation report
- An enforcement report
- Consideration of any further matters within the committees Terms of Reference
- Any Late items
- Any exempt or confidential matters

How is Business Dealt With?

The chairperson will announce each item. There is normally a comprehensive written report, which is available five working days before the meeting. Members of the committee will have read each report before the meeting takes place and they will have had the opportunity to look at the case file and the plans and supporting information during the preceeding week. Relevant drawings are displayed on the screen boards in the committee room during the consideration of each item ~~however this is likely to be replaced with power point type presentations in the near future~~. The committee will have visited some of the sites. The planning officer will present a summary of the report, which is followed by any public speaking, which has been arranged, and questioning of those addressing the meeting in accord with the separate public speaking protocol. The applicant will usually speak last in the order of speakers. The chairperson will then ask committee members for any questions for officers, which is followed by a debate on the item, by councillors resulting in a mover and seconder for a particular recommendation. Any councillors not present for the complete presentation and debate will not be able to vote on the recommendation.

Committee members will ensure that they do not disrupt the decision process through discussion between themselves and by ensuring mobile phones are turned off. This will ensure that the committee process is viewed as a professional and transparent service.

It is usual practice for the committee to bring forward to an earlier part of the meeting those applications where notice has been given that applicants and objectors wish to speak or where members of the public have come to hear the debate. The Committee Clerk will ask all those present which item they are in attendance for prior to the start of the meeting.

Although the committee will try and deal with applications which the public are interested in as soon as possible, often the agendas can be quite long and the committee may want to enter into detailed discussion and debate over particular cases. This means that the public may have to wait for some time however in notifying interested parties of the intention to report applications to particular committees, estimated times of consideration of the proposal will be given where possible so that delayed attendance for later items can be arranged.

Where appropriate a comfort break will be taken generally after 2 hours at the discretion of the committee chair.

Speaking at Committee

Addressing the committee by applicants and members of the public will be permitted in line with the separate speaking at committee protocol.

What is the basis for a decision?

Decisions must be based on planning issues for example:

- Central Government, Regional or Local plan Policy
- Highway safety
- Landscape Impact
- Local amenity, noise, privacy
- Case Law and previous decisions
- Conservation of Buildings, trees etc
- Appearance

The following examples are not normally planning issues:

- Affect on Property Values
- Ownership disputes
- Business Competition
- Moral considerations
- Restrictive covenants
- Personal circumstances
- Matters controlled by other legislation (eg licensing)

Even if many objections are received to an application, permission cannot be refused without good planning reasons. A retrospective application submitted after work has been carried out has to be determined like any other application on its own individual planning merits.

5. Voting

All members of committee are entitled to vote and the chair of the meeting has the casting vote should the voting be equal. Decisions are made on the basis of a simple majority of votes cast. Voting will be by show of hands following a mover and seconder of a recommendation.

What decisions can the Committee make?

- Approve the application: Usually this will be subject to planning conditions, which must be reasonable and relate to the development

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proposed. Sometimes planning policy or other reasons to resolve issues with the application mean that a legal agreement will be required. These are called 'Section 106 Agreements' or 'Planning Agreements' and will be required when a developer is required, for example, to pay a contribution for % for Art-play or affordable housing provision.

- Refuse: Sound planning reasons must be given which the authority have to substantiate if the decision is challenged on appeal. The applicant has a period of 6 months to lodge any appeal to the Secretary of State (8 weeks for signage, householder and minor commercial).
- Defer: If members feel that they do not have enough information before them to make a decision or they consider a site visit is required, they may defer the application to a subsequent meeting.

The agenda for the meeting consists of reports written by Council Planning Officers recommending a particular decision. Planning Committee members may vary or overturn the recommendations against the planning officer advice however sound planning reasons have to be given at the meeting for deviating from the report recommendations.

6. Recording of Decisions

Minutes of the meeting will be taken indicating any reasoning and changes to the recommendations. The minutes will be posted on the Councils website within 7 working days of the meeting.

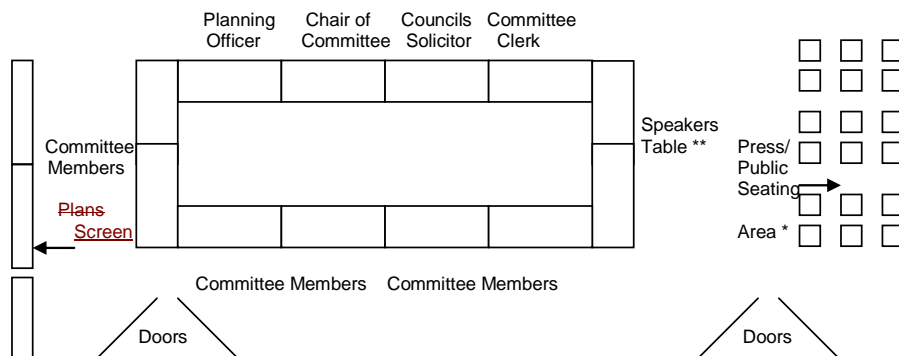
7. What if you don't like the decision?

The applicant may appeal to the Secretary of State against a refusal or the imposition of a condition.

A third party, such as a neighbour, has no right of appeal but the following actions are possible:

- Complaint under the Councils Complaints Procedure;
- Complaint to the Local Government ombudsman about the way the application has been handled but not about the decision taken;
- a legal challenge to the decision ('judicial review') in the High Court.

Layout of committee room 1



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* Seats are taken on a first come first served basis and availability cannot be guaranteed however sufficient chairs will be provided where possible.

** If you are going to address the committee, the chairperson will call your name at the appropriate time and invite you to sit at the speakers' table

This leaflet is provided by the Planning Service to help members of the public understand the workings of Planning Committee. It is not an authoritative statement of the law. Any further questions should be put to staff in attendance at the meeting before the meeting begins.

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Protocol for Planning Committee Site Visits **Chesterfield Borough Council**

1.0 Background

1.1 This protocol is intended to guide members of the planning committee when carrying out site visits as part of the determination process of planning or other applications.

1.2 It is also intended to inform other stakeholders with an interest in planning applications e.g. applicants, objectors, agents, Parish Councils, with regard to procedural matters.

1.3 It is important that site visits are dealt with in a consistent and organised manner and that administrative and procedural arrangements on site are understood so that all parties involved in the process are dealt with transparently and fairly.

2.0 Legal Position

2.1 The purpose of the site visit is to enable Members of the planning committee to:

- more fully understand the details of a development proposal in the context of the application site and the surrounding land and buildings;
- more fully understand issues raised by interested parties.

2.2 Site visits can cause delay to the planning process and are only necessary when a benefit to the planning process can result. Their purpose is to enable committee members to see the application site, its physical features and the context in which it is set, to visualise the proposed development, and to assess its impact on the locality.

2.3 Site visits should be held where:

- the impact of the development is particularly difficult to visualise, or
- planning committee requests it, or

- there is good reason why the comments of applicant and objectors cannot be adequately expressed in writing, or
 - the right to address the committee has been requested (where objectors have raised issues relating to impact and amenity), or
 - the proposal is particularly contentious.
- 2.4 Site visits requested by ward councillors will not usually be appropriate unless one of the above factors also applies.
- 2.5 Site visits should not be undertaken to defer difficult decisions on controversial applications, because applicants or objectors request them or so that members can placate their ward constituents.
- 2.6 The decision to undertake a committee site visit will involve prior consultation with the committee chairperson.
- 2.7 Members are reminded that the Town and Country (General Development Procedure) Order 1995 (Article 20) requires planning authorities to determine applications within 8 weeks of receipt or 13 weeks for a major application. The significance of the 8 (or 13) week date is twofold. First, it is the date by which local authority performance is judged. Second, and most importantly, it enables the applicant to appeal to the Planning Inspectorate against “non determination” of applications, at which point the local authority cannot continue to determine the application.
- 2.8 Site visits are part of the meeting of the planning committee. Councillors intending to declare a prejudicial interest and withdraw from the meeting on the matter the subject of the site visit, should not attend the site visit. If the interest is not prejudicial the councillor may attend the site visit.
- 2.9 Only planning committee members who attend the site visit will be permitted to remain at the meeting to consider the item the subject of the visit. It is important that all members considering the matter have the same information before them. Those planning committee members who do not attend the site visit will be permitted to remain in the committee room during the item concerned.

3.0 Arranging Site Visits

3.1 When a site visit is considered necessary, Planning Services will notify the applicant or their agent together with other interested parties such as objectors of the time and date of the site visit, requesting they be in attendance only on sites where access to private land is required.

Officers will have arranged the visit in advance with relevant parties however there is no right to enter on private land without permission of the owner, and if permission is not given the site will have to be viewed from public highway.

3.2 Ward members will be invited to attend the site visit.

3.3 A copy of the agreed Site Visit Protocol is to be available on the Council website~~sent to all those notified of the site visit.~~

3.4 Site visits will normally take place on the day of planning committee giving sufficient time to arrive back at the Town Hall at least 30 minutes before the start of the committee meeting.

3.5 Some members of Planning Committee may find attendance at some site visits difficult due to a disability. Where this is the case officers will discuss with the member a reasonable adjustment to enable the member to participate without necessarily attending on site (e.g. viewing photographs of relevant features with an explanation by the planning officer). However it is acknowledged that viewing the site first hand is the best way of understanding the issues which triggered the need for a site visit.

4.0 Procedure at Site Visits

4.1 The Chairperson of the planning committee will oversee the conduct of site visits. They will start promptly at the time notified to members and interested persons.

4.2 Councillors should either travel to the site at the same time as (or with) the planning officer attending the visit or meet the officer on site. If present at the site before the visit begins particular care should be taken to ensure that they maintain

their objectivity. Hospitality or lifts should not be accepted from applicant or objector as this could be seen to show favour.

- 4.3 Members and officers should ensure that mobile phones are turned off or are on silent during the site visit.
- 4.4 At the request of the Chairperson, the planning officer will describe the proposal to members and will display plans or drawings of the proposal. It is expected that members will already be familiar with the planning officer's report. The planning officer will indicate matters of fact in relation to the proposal and surrounding land which members should take account of.
- 4.5 Members of the planning committee may ask the planning officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of parking spaces. Member questions should be addressed to the planning officer through the Chairperson. **At no time during** the site visit should members debate the planning merits or otherwise of a proposal. Members should not discuss the merits of the application as the proper time for this is in the committee room after presentation of the officers report and any additional representations. To do so might imply that the members mind is made up. Even comments on the scenery or locality could be perceived as a comment on the appropriateness of the proposal.
- 4.6 The public right to address planning committee does not arise until the item is reached on the committee agenda. At no time during the site visit will the applicant, their agent, any objector or any other member of the public be allowed to address members. The site visit is not for further representations to be made however occasionally it may be appropriate for them to be asked, through the chairperson, to point out important or relevant site features however they should not be encouraged to express opinions. The chairperson may ask any ward member present, if not a member of planning committee, for any comments.
- 4.7 In order to assist in ensuring that members retain their objectivity, they should keep together in one group with the

chairperson and the planning officer and not break away into small groups.

- 4.8 At the end of the site visit the members should leave the site promptly. If necessary they will drive or be transported to the next site visit where the same procedures as above will apply.
- 4.9 The Planning Officer will keep a record of members attendance at the site visits and pass this information to the committee clerk for minute purposes.

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FOR PUBLICATION

AGENDA ITEM

**Diversion of Public Rights of Way (Bridleway and footpaths)
at Peak Resort (Ecodome site) Sheffield Road, Chesterfield.**

MEETING:	PLANNING COMMITTEE
DATE:	30th October 2017
REPORT BY:	DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD:	Old Whittington

1.0 REASON FOR THE REPORT

- 1.1 To consider works undertaken in relation to the Stopping Up Order which closes and diverts the bridleway and footpaths crossing the Peak Resort site and the creation of new routes on the site perimeter
- 1.2 To consider the need for a further Diversion Order.

2.0 PLANNING BACKGROUND

- 2.1 Outline planning approval was granted on 17th August 1989 for the development of the 280 acre Peak Resort site for a major leisure venue under code CHE/0389/0210. This included a single domed structure containing hotel together with indoor and outdoor related leisure and educational facilities centred on a reconfigured golf course and lake together with 250 holiday lodges on the upper part of the site.

- 2.2 A subsequent Reserved Matters permission was made for phase 1 of the scheme under code CHE/0892/0496 and which was not determined until 1st July 2008. This resulted in the reduction in the mass of the building with a series of interlinked domed structures allowing for a phased building of the project. The permission reserved further detail for subsequent approval and the scheme therefore remains valid since the original condition on the outline permission allowed the scheme to be begun before the expiry of two years from the date of approval of the last of the reserved matters to be approved. The scheme and the permission has now been implemented.
- 2.3 A number of formal changes were made to the scheme over the years with amendments to the conditions in 2005 under code CHE/0301/0164 and which resulted in a S106 agreement dated 10th August 2005 concerning highway matters, travel planning, ecology management and Community Liaison. An alternative access to the site was also considered and agreed under code CHE/09/00075/FUL on 12th November 2009 and this resulted in the access to the site being created from a new roundabout at the junction of the A61 slip road with Sheffield Road.
- 2.4 In 2016 a further revision to the phase 1 component of the scheme was agreed and which proposed an arrival gateway building set in advance of an Aspire Hotel linked to a University building via a Union building all linked with a colonnade overlooking a lake and amphitheatre and with a first phase car park to the north.
- 2.5 The scheme was always intended to be a secured and fenced facility and it was envisaged that the footpaths and bridle route crossing the site would require diversion to the site perimeter into a new route. The permission to amend the scheme granted in 2005 specifically proposed diversion of all routes crossing the site to the perimeter of the site. Conditions of the permission sought full details of the enclosure of the site and the full details of the new footpath and bridle route.

3.0 THE DIVERSION ORDER

- 3.1 On 16th December 2014 the Council made a Stopping Up and Diversion Order which resulted in a number of Public Rights of Way across and within the site being diverted to the site perimeter. These were FP38, FP40, FP41, FP43, FP44, FP45, FP47, FP178 and BR39. The Order plan is attached at Appendix A. There were also a considerable number of other 'desire line' paths which criss crossed the site at various locations.
- 3.2 Bridle Route 39 diagonally crossed the site from the south east corner of the site and connecting to Bridle Route 51 which runs to the north west towards Ouzle Bank. The route was well used by horse riders, walkers and cyclists but was in poor condition being largely churned up and thick mud for much of its length. Bridle Route 51 beyond the Peak Resort site was no different. Other footpath routes on the site were largely narrow, up to a metre wide trodden woodland paths and which were also generally in poor condition.
- 3.3 The scheme proposed the creation of a new circulatory route comprising of new bridle path, existing forestry track and new footpath. The new bridle path links into the bridle path 51 at the top north west corner of the site and runs around the northern perimeter of the site down to the former golf club house where it links to Sheffield Road providing an access opportunity from Unstone. There is also a new car park and facility for horse box parking at this location and which is accessed via the former golf club entrance. The new bridle route continues along the eastern boundary of the site along the Drone riverside running parallel to Sheffield Road all the way to the south east corner of the site where it connects to Sheffield Road and bridle route 39 and subsequently to the track 38 along the bypass side. The existing forestry track 38 remains unchanged providing an opportunity to connect to the south west corner of the site at which point a new footpath cuts up through the steep sloping woodland along the western perimeter of the site and around to its connection to bridle path 51, thereby providing the complete circuit.

- 3.4 The new length of bridle path was shown as 2075 metres in length compared with the existing bridle route of 1265 metres. The existing definitive footpaths on the site extend to a length of 5605 metres and this was proposed to be reduced to 2125 metres.
- 3.5 The Order set out the standards for new routes and referred to the bridle path standard comprising of a 3.0 metres width with 0.3 metre margins and an additional 1.0 metres minimum soft landscaped margin both sides. It was to be finished with a Toptrec or equivalent material laid on an appropriate subbase. The footpath route would be 1.8 metre in width with a Toptrec or equivalent material surface. All the routes would be provided with way marking signage.
- 3.6 The Order was the subject of required local publicity and consultation and which resulted in one outstanding unresolved objection from Birch Hall Farm. This meant that the decision on the Order had to be referred to the Secretary of State for examination. A hearing was held on 10th November 2015 and which resulted in the issue of a confirmation of the Order with minor modification in a decision dated 15th December 2015.

4.0 ASSOCIATED WORKS AND PROGRESS

- 4.1 SCRIF funding of £2.8m had been agreed to implement the creation of a new access to the site via an associated s278 agreement together with the footpath and bridle path diversions and the fencing of the site as a way of facilitating the development of the site. Detailed landscaping plans for the perimeter route were agreed together with the fencing detail around the site perimeter. This detail included incorporated badger gates, ditches etc.
- 4.2 The land owner has completed the new bridle path and footpath routes and the fencing of the site however gates have been provided in the fencing to allow access to the existing footpaths which cross the site pending their closure at which point the gates would be closed and locked. A photographic presentation of the route around the site will be shown to planning committee.

- 4.3 The County Council has agreed a fully detailed layout for the site access and which is now the subject of a signed s278 agreement. Work has started on site. The County Council has also imposed a Temporary Diversion Order of bridle route 39 adjacent to the bypass slip road to allow for the roundabout construction works to proceed unhindered.

5.0 PROCEDURE

- 5.1 On completion of the works referred to in the Stopping Up and Diversion Order it is the role of the Order making authority to certify that the works have been satisfactorily completed. On certification, there is a requirement to notify the Ordnance Survey and Derbyshire County so that the definitive maps can be changed to reflect the new routes. Derbyshire County Council would from that point take over the responsibility for maintenance and public liability for the new routes. The opportunity however for Derbyshire County Council to challenge the certification arises if they consider the works have not been carried out in accord with the Order. There is also an opportunity for any other party to seek a judicial review of any decision which is taken regarding certification.

6.0 CONSIDERATIONS

Certification

- 6.1 The land owner has implemented the new bridle path and footpath route works as shown in the photographic presentation of the route and considers the works are complete. The routes are currently restricted by temporary barriers and not available for public use until they are certified as being completed however public access is still being obtained. The land owner is wanting the Order to become operational as soon as possible as they are wanting to let contracts for development of the site and which are currently limited by the presence of definitive rights of way which cross the site.
- 6.2 It is only possible to certify that the works have been completed in their entirety rather than in respect of a part of the Order scheme.

6.3 Officers are satisfied that the works undertaken are appropriate and acceptable however three issues arise which require further consideration.

- The footpath route through the woodland between points R and T on the Order plan has not been provided with a Toptrec or equivalent surface;
- The footpath route through the woodland is less than 1.8 metres in width in some locations;
- The bridle path route linking to Sheffield Road between point Z to Y has yet to be provided.

6.4 Bullet point 3 is dealt with in more detail below in connection with the need to seek a further Diversion Order in connection with the construction of the new access roundabout.

6.5 Bullet points 1 and 2 concern the same section of footpath which cuts up the steep sloping hillside through ancient woodland and along the crop woodland edge. Notwithstanding the land owners original intention and specification to provide a Toptrec surface (a 100% recycled semi bound material using aggregate products screened from road planings, concrete and brick) it was decided to retain the route as a more natural woodland walk with a softer bark chipping, forest floor surface and which retained trees wherever possible. It has meant however that in isolated locations through the steepest section that the width of the path is less than 1.8 metres however for the majority of the section the route is far more than this width. To create a 1.8 metre width would involve the felling of more trees and creation of a more engineered solution.

6.6 In response the County Council has expressed concern that such a route without a Toptrec surface would add to the maintenance liability which ultimately would be the responsibility of the County Council and there was a concern that the County Council may well object to any certification of the route by the Borough Council.

- 6.7 At Paragraph 10 of the decision letter the Inspector described the new footpath routes as follows:

The footpath routes would be 1.8 metres in width with a 0.3 metre margin on both sides and finished with a Toptrec or equivalent material surface.

The inspector also says in paragraph 11:

The new footpaths would have a superior surface and increased width and would maintain the connections to all the routes which run to and from the site. The footpath would allow for a complete circuit of the site to be made.....

- 6.8 It is considered that the bark chipping surface provided is a superior surface to the previous surfacing of footpaths within the site and that the width of the path is appropriate for its woodland location. Provision of a widened route where necessary would clearly require tree felling and would be detrimental to the character of the woodland and the walk through it. This would be at odds with the enjoyment potential for the user. The routes which run away from the site and which are connected into the new route are narrow muddy paths and far less superior than what has been provided on the site by the land owner. It would however not be correct to say that the bark chippings are “equivalent” to Toptrec as bark chippings are loose whereas Toptrec is a semi bound material. With hindsight it is considered that a Toptrec surface through the woodland would not actually be appropriate in the circumstances given the steep slope and twisting route and the inevitable encouragement of unlawful use of the footpath route by users other than walkers (eg: cycle and horse use). This would be difficult to manage and control given the isolation of this part of the site. A cyclist for example would undoubtedly travel very quickly down a Toptrec surfaced path which would be at odds with the safety of any walkers on the route.
- 6.9 Representatives of local walking organisations, including the Ramblers Association, Peak and Northern and the Dronfield and Unstone footpaths Society have walked the route and raise no significant issues with the new footpath.

- 6.10 The Borough Council has sought counsel's opinion on this matter.
- 6.11 In counsel's opinion, the requirement in Article 2 of the Order, that the Council be reasonably satisfied that the provided paths and bridleways are as provided for in Part 2 of the Order, provides the Council with a sensible measure of operational discretion. While the existing bark chipping surfacing cannot be said to be equivalent to a Toptrec-like bound surface, the western section is but one of seven proposed new paths and bridleways. It is only this part of the network which is proposed to have a different surface than that specified in the Order and, on the face of it, that is for sensible reasons. The discretion can therefore be exercised with minimum risk.
- 6.12 Counsel, after considering all the issues, concludes that a challenge to the exercise of the discretion would be both expensive and disproportionate action in relation to what appears to be a relatively minor operational issue in the context of the Peak Resort development in general or the proposed paths and bridleways envisaged under the Order in particular. In any event, in his view, the prospects of such action would be questionable in light of the express discretionary element contained in Article 2 discussed above. Counsel advice is that the Council take note of the small risk of challenge but proceed with the certification of the Order.
- 6.13 Further detailed conversations with the County Council at an Executive level has since confirmed that whilst they remain concerned regarding future maintenance they are unlikely to contest a certification of the Order.

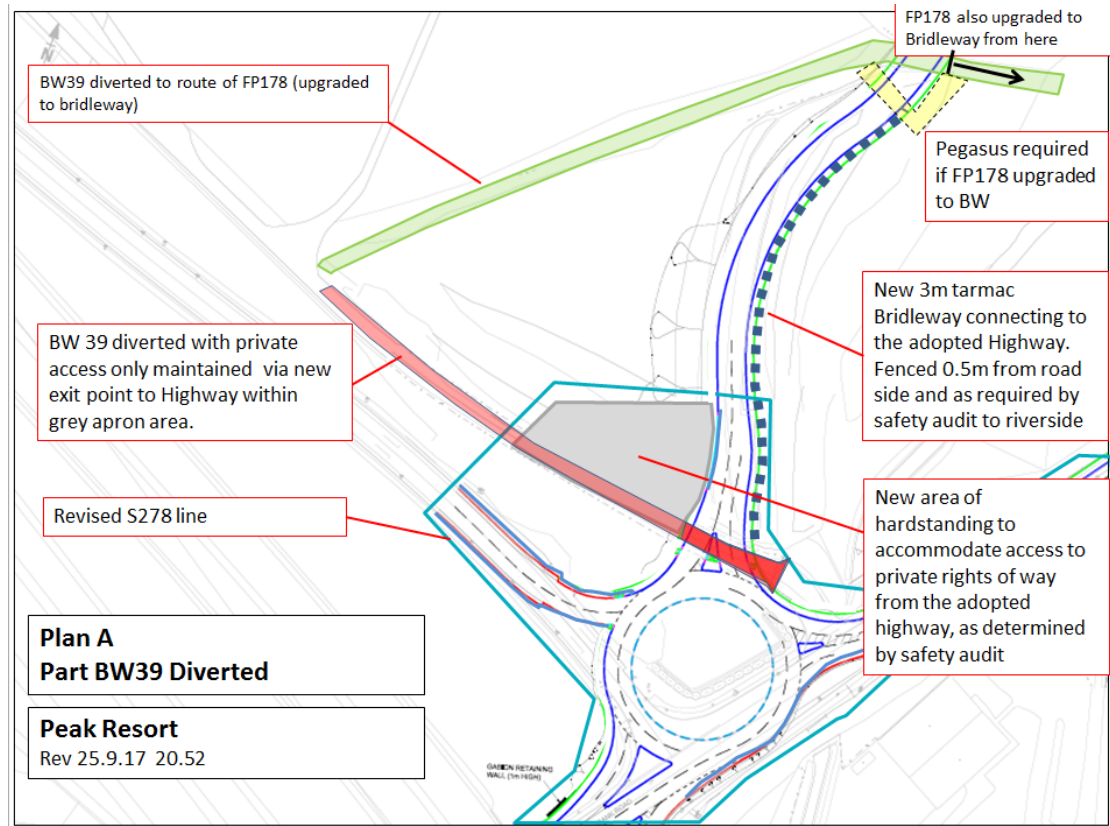
Diversion of BR39

- 6.14 The Order was based on an indicative understanding of the roundabout location on Sheffield Road and how proposed routes achieved a circulatory and safe access. The issue with safety for horse riders was considered by the inspector in her decision on this matter. At the time the scheme promoted a bridle route along the riverside and around to the new roundabout on Sheffield Road with a crossing to the

existing bridle route 39 and the track alongside the a61 bypass close to the roundabout junction radii. An underpass beneath the site access was proposed by the land owner. The inspector referred to the underpass proposal but that would not be appropriate for horse riders and so there was a conflict if riders needed to join bridle route 39 and the track. The inspector was however satisfied that a safe crossing could be provided and she referred to TA 57/87. The inspector commented that negotiating a busy roundabout would be more difficult and is “not a manoeuvre to be promoted”. Since the inspectors decision, the land owner has promoted a “Pegasus” crossing of the access route into the site in lieu of the underpass. This would be positioned away from the roundabout and enable horse riders to safely cross the new access and ride from the riverside route onto bridle route 39 and the track alongside the bypass.

- 6.15 Discussions have continued with DCC regarding the s278 agreement in respect of the roundabout construction and now that the agreement has been signed they have issued a temporary closure of part of bridle route 39 which will be in place until the end of April 2018. This will allow for the construction of the roundabout without having to facilitate the public access to the network at this point. Users in the meantime would link along footpath 178 through to Sheffield Road opposite Mallory Close.
- 6.16 In processing the s278 agreement it became clear that on completion of the roundabout works the temporary closure of BR39 will cease and would reopen along its original alignment. This would be to provide a bridle route access directly onto a roundabout junction radii which would not be safe. It is clear that a further minor diversion of route 39 at the new roundabout end will be required to facilitate a safe connection to the highway after the roundabout construction (see diagram below).
- 6.17 A solution has now been promoted by the land owner (as shown below) and which has given the County Council some comfort that a solution will be secured prior to the end of the Temporary closure period. At the time of writing this report the land owner is preparing an application for the diversion,

and has undertaking to pay the Council's costs of processing the application up to a specified cap.



6.18 The diagram shows that a section of BR39 linking to Sheffield Road will be closed and diverted onto an upgraded footpath 178 to bridle path standards. This will include the Pegasus crossing of the new access and linking into the riverside bridle route. A new bridle route will then connect back to the Sheffield Road alongside the new access as a 3 metre wide tarmac route separated from the access road by fencing and 0.5 metre margin. The former route of BR39 will be retained only in so far as the route of the forestry track for logging access and the intention is that its junction with the new access road will be adjusted to allow an appropriate and safe access position. It will be necessary for the new bridle route connection back to Sheffield Road to incorporate safeguarding measures which comply with TA 57/87 – Roadside Features.

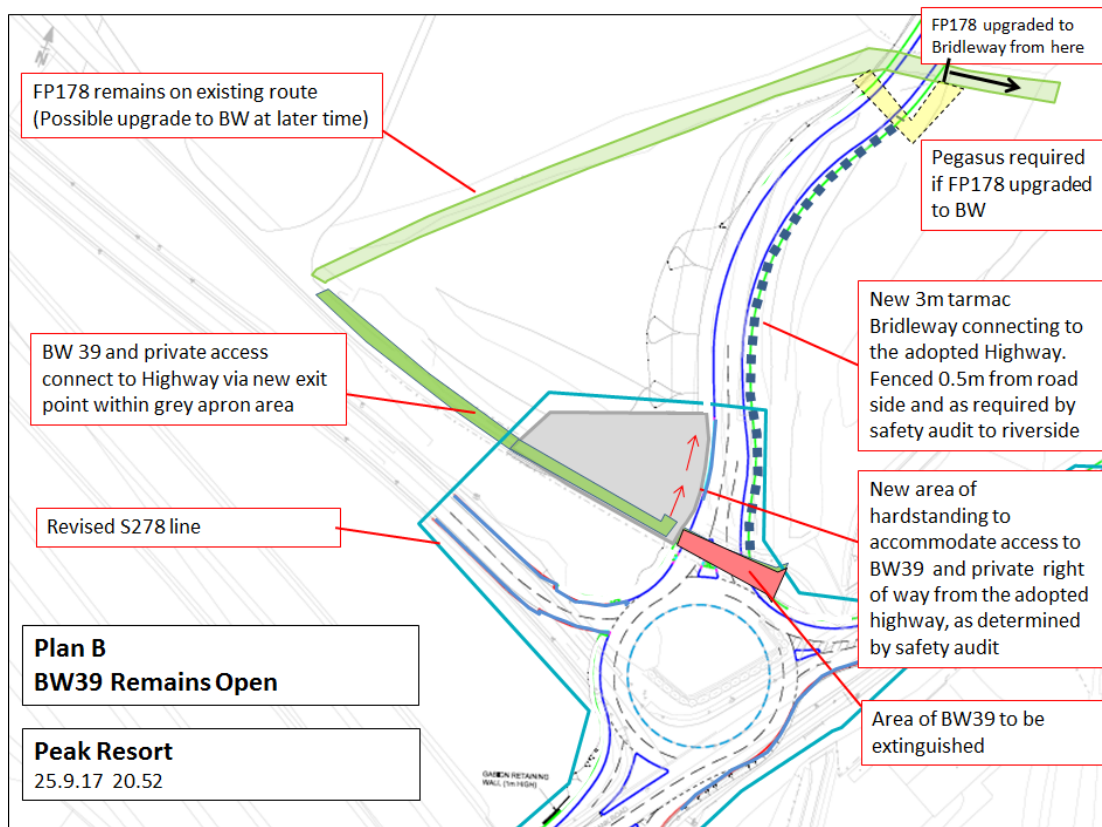
6.19 The merits of a planning permission should not be questioned when considering whether to make an Order, nor should an order be made purely on the grounds that planning

permission has been granted. Whilst planning permission has been granted for a development and the access arrangement this does not mean that the public right of way will automatically be diverted however there must be good reasons to justify a decision not to make an order. The disadvantages or loss likely to arise as a result of the diversion of the route to members of the public generally or to persons whose properties adjoin or are near the existing route should be weighed against the advantages of the proposed Order.

- 6.20 In this case the diversion route enables the implementation of a significant new access to a development of importance to the Borough and region delivering considerable investment, employment and regenerative benefits. It is clear that the position of BR39 would result in an unsafe arrangement for users emerging directly onto the new roundabout radii. The test is to consider the impact of the diversion route on public enjoyment of the route as a whole and whether the new route will be substantially less convenient to the public.
- 6.21 It is clear that the diversion is necessary in the interest of public safety and in this respect is a more suitable, superior route when compared with the existing route. The new route provides an opportunity to link to Sheffield Road to the same point as the existing route position and whilst the new route will be a little less convenient for users, in the scale of the overall network being provided, is a relatively minor change and no less convenient to potential users. The diversion route maintains connections to all routes which run to or from the site, therefore maintaining continuity and the route would be detailed to achieve as safe and direct route as possible providing an enhanced multi user circuit opportunity. In proportionate terms the new route is no less convenient, desirable or commodious than the existing.
- 6.22 The procedure involves the Council making a Diversion Order which is given a full 4 weeks publicity and consultation process involving press advert, site notices and consultation with affected groups and organisations and interested parties. Any representations received have to be taken into consideration in determining the outcome of the diversion or

closure order and the Council is not able to confirm such an order if there are outstanding objections. In such circumstances there is usually a referral to the Secretary of State who will make the decision by the written representation method, a hearing or a full inquiry depending on the responses received.

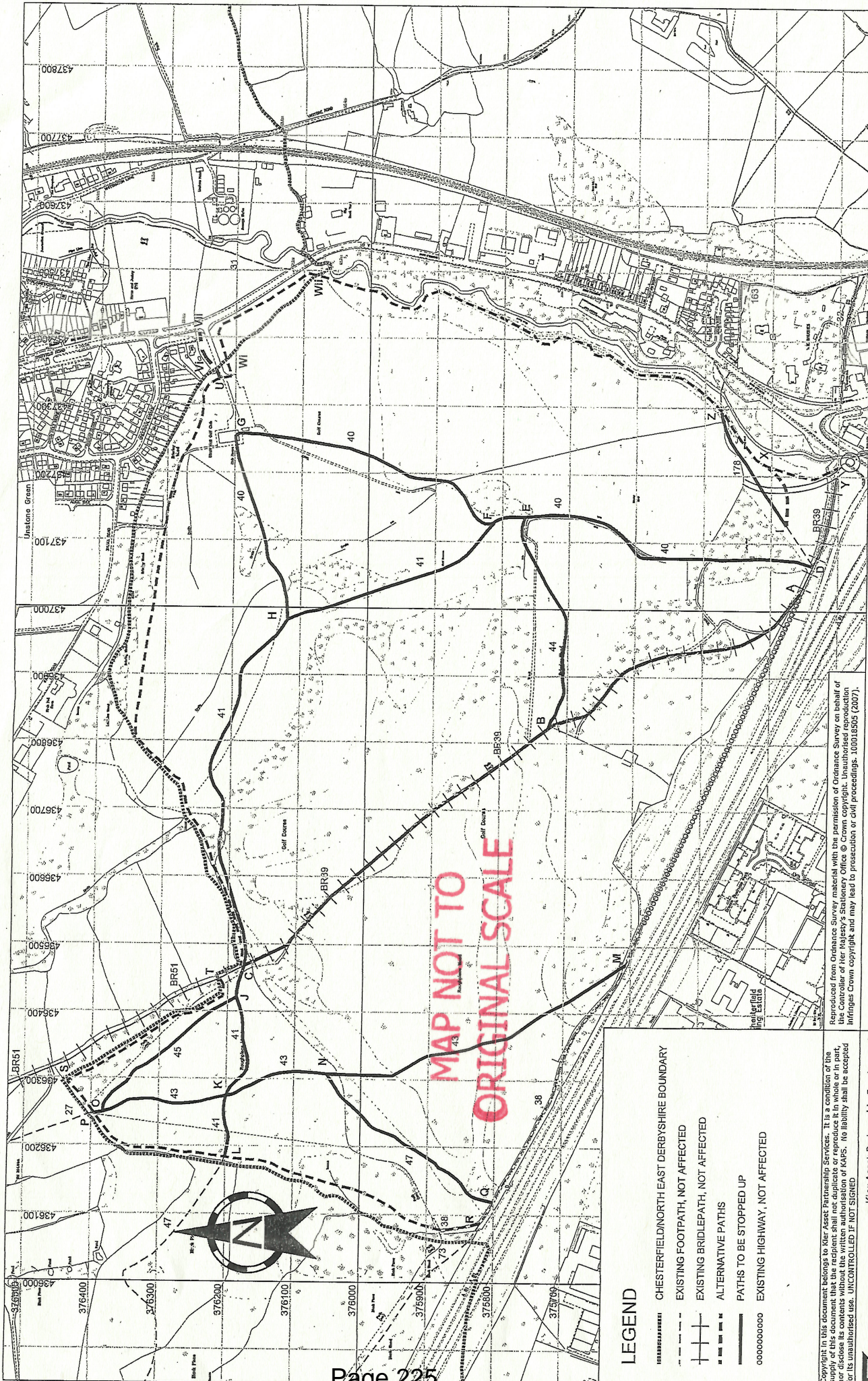
6.23 In the event that the diversion route cannot be resolved prior to the completion of the roundabout works and the existing route of BR39 has to be reinstated the land owner has provided an intermediate solution whereby bridle route 39 has to track back up the access road to a safe crossing point as shown in the following diagram however this option (B) is not the preferred option and one which is not being pursued by the Council in this case.



7.0 RECOMENDATION

- 7.1 That the 2015 Stopping Up Order be certified as being satisfactorily provided;
- 7.2 That BR39 be diverted as described in this report, subject to the precise route being delegated to officers, and the required full publicity and consultation exercise and that any unresolved objections received to the proposed Order be considered by Planning Sub Committee and referred to the Secretary of State for a decision.

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DATE
DECEMBER 2014

SCALE
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TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257
(PUBLIC BRIDLEWAY NO. 39 (PART) AND PUBLIC FOOTPATHS 40, 41, 43, 44, 45, 47 AND 178 (PART) STOPPING UP ORDER 2014)

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- LEGEND**
- CHESTERFIELD/NORTH EAST DERBYSHIRE BOUNDARY
 - - - - - EXISTING FOOTPATH, NOT AFFECTED
 - + + + + + EXISTING BRIDLEPATH, NOT AFFECTED
 - ALTERNATIVE PATHS
 - PATHS TO BE STOPPED UP
 - 0000000000 EXISTING HIGHWAY, NOT AFFECTED

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