



Please ask for Charlotte Kearsey
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The Chair and Members of Planning Committee

Councillors D Collins and L Collins –
Site Visit 1
Councillor T Rogers –
Site Visit 2
Councillor K Falconer –
Site Visit 3

7 February 2020

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on MONDAY, 17 FEBRUARY 2020 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 12:55pm. Ward members wishing to be present should attend on site as indicated below:-

1. 13:15 Former Norbriggs Nursery, Worksop Road,
CHE/16/00114/OUT
2. 13:40 St Hugh's Church, Littlemoor,
CHE/19/00729/FUL
3. 14:10 195 Old Hall Road, CHE/19/00670/FUL

Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield S40 1LP

Telephone: 01246 345 345, Text: 07960 910 264, Email: info@chesterfield.gov.uk

www.chesterfield.gov.uk

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 Charlotte Kearsey on tel. 01246 345236 or via e-mail: charlotte.kearsey@chesterfield.gov.uk by 9.00 a.m. on Monday 17 March, 2020. 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 3 - 14)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 15 - 170)
5. Building Regulations (P880D) (Pages 171 - 174)
6. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 175 - 188)
7. Applications to Fell or Prune Trees (P620D) (Pages 189 - 194)
8. Appeals Report (P000) (Pages 195 - 198)
9. Enforcement Report (P410) (Pages 199 - 204)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Randy', with a stylized flourish at the end.

Local Government and Regulatory Law Manager and Monitoring Officer

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PLANNING COMMITTEE

Monday, 27th January, 2020

Present:-

Councillor Callan (Chair)

Councillors Barr
Bingham
Brady
Catt
Davenport
T Gilby

Councillors Kelly
Marriott
Borrell
G Falconer
Mann

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

CHE/19/00731/FUL - Re-Submission of CHE/19/00481/FUL - two storey extension to side of house (revised drawings received 30.12.2019 showing reduced ridge height and parking plan provided 14.01.2020) at 16 Rockingham Close, Chesterfield S40 1JE for Mr Eyre.

Councillors Barr, Bingham, Borrell, Brady, Callan, Catt, Davenport, Faulkner, Gilby, Kelly and Marriott.

CHE/19/00532/REM - Reserved matters application for appearance, landscaping, layout and scale of CHE/16/00171/OUT - residential development and creation of new site access (revised/additional information received 18/12/2019, 13/01/2020, 13/01/2020 and 15/01/2020) at the Former Boatyard Site, 955 Sheffield Road, Sheepbridge (near Unstone), Chesterfield, Derbyshire S41 9EJ for Galliford Try Partnerships.

Councillors Barr, Bingham, Borrell, Brady, Callan, Davenport, Faulkner, Gilby, Kelly, Marriott, Mann, P Niblock (ward member) and S Niblock (ward member).

*Matters dealt with under the Delegation Scheme

Apologies for absence were received from Councillors Caulfield, Miles and Simmons.

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

Councillor Catt declared an interest in agenda item 4(1) (CHE/19/00731/FUL - Re-submission of CHE/19/00481/FUL - two storey extension to side of house (revised drawings received 30.12.2019 showing reduced ridge height and parking plan provided 14.01.2020) at 16 Rockingham Close, Chesterfield S40 1JE for Mr Eyre) as he had been involved with local residents regarding the application.

Councillor Mann did not attend the site visit of agenda item 4(2) (CHE/19/00532/REM - Reserved matters application for appearance, landscaping, layout and scale of CHE/16/00171/OUT - residential development and creation of new site access (revised/additional information received 18/12/2019, 13/01/2020, 13/01/2020 and 15/01/2020) at the Former Boatyard Site, 955 Sheffield Road, Sheepbridge (near Unstone), Chesterfield, Derbyshire S41 9EJ for Galliford Try Partnerships and did not take part in the debate or subsequent vote.

98 MINUTES OF PLANNING COMMITTEE

RESOLVED -

That the Minutes of the meeting of the Planning Committee held on 6 January, 2020 be signed by the Chair as a true record.

**99 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:-

Councillor Catt had declared an interest in the following item and left the meeting at this point.

CHE/19/00731/FUL - RE-SUBMISSION OF CHE/19/00481/FUL - TWO STOREY EXTENSION TO SIDE OF HOUSE (REVISED DRAWINGS

RECEIVED 30.12.2019 SHOWING REDUCED RIDGE HEIGHT AND PARKING PLAN PROVIDED 14.01.2020) AT 16 ROCKINGHAM CLOSE, CHESTERFIELD S40 1JE FOR MR EYRE

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment.
 - Proposed first floor layout and proposed ground floor layout, Drawing number DSC.761.01 Revision A (dated November 2019, received 22.11.2019)
 - Proposed front elevation with lower roof pitch, sheet 1 (received 30.12.2019)
 - Proposed 'unseen' side elevation, sheet 2 (received 30.12.2019)
3. Prior to the occupation of the hereby approved development, the car parking spaces and vehicular hardstanding as shown on drawing 'Proposed Car Parking Spaces' (received 14.01.2020) shall be provided in accordance with the approved drawing and thereafter be retained permanently for domestic car parking in perpetuity.

Councillors Mann left the meeting at this point as he had not attended the site visits so was precluded from participating in the debate and making decisions on the applications to be determined by Committee.

Councillor Catt returned to the meeting.

CHE/19/00532/REM - RESERVED MATTERS APPLICATION FOR APPEARANCE, LANDSCAPING, LAYOUT AND SCALE OF CHE/16/00171/OUT - RESIDENTIAL DEVELOPMENT AND CREATION OF NEW SITE ACCESS (REVISED/ADDITIONAL INFORMATION RECEIVED 18/12/2019, 13/01/2020, 13/01/2020 AND 15/01/2020) AT THE FORMER BOATYARD SITE, 955 SHEFFIELD ROAD, SHEEPBRIDGE (NR UNSTONE), CHESTERFIELD, DERBYSHIRE S41 9EJ FOR GALLIFORD TRY PARTNERSHIPS

In accordance with Minute No. 299 (2001/2002) Kevin Robinson and Chris York of MHA Architects (applicant's agent) attended the meeting to answer any questions.

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

A. 1. All external dimensions and elevational treatments shall be as shown on the approved plans / documents (listed below) with the exception of any approved non material amendment.

Site Location Plan – DR-A-01-001 S2 P3
Proposed Site Layout – DR-A-01010 S2 P12
Proposed Hard and Soft Landscaping Plan – DR-A-01011 S2 P9
Materials Treatment Plan – DR-A-01012 S2 P7
Boundary Treatment Plan – DR-A-01013 S2 P9
Parking Statistics Plan – DR-A-01014 S2 P7
Tenure Identification Plan – DR-A-01015 S2 P3

House Type 2 – DR-A-00001 S2 P3
House Type 3 – DR-A-00002 S2 P3
House Type 3A – DR-A-00003 S2 P3
House Type 4 – DR-A-00004 S2 P3
House Type 2 Active Gable – DR-A-00005 S2 P3
House Type 3 Active Gable – DR-A-00006 S2 P3
House Type 4 Active Gable – DR-A-00007 S2 P5
House Type 3 Active Gable Option Plot 1 – DR-A-00008 S2 P1

Boundary Treatment Details – DR-A-05001 S2 P3
Detailed Landscape Proposals – C-1660-01 Rev D
Adopted Road Lighting - HLS-752 D3

Reptile Survey prepared by Dr. Stefan Bodnar (May 2019)
Environmental Noise Survey prepared by noise.co.uk (14 January 2020)
Design and Access Statement Rev P1 prepared by MHA Architects
Technical Note – Network Rail prepared by Rodgers Leask Ltd (15 March 2019)

2. Notwithstanding the details accompanying this reserved matters application, prior to commencement of development revised soft landscaping and tree protection measure (inc. details for any above ground construction or works within defined root protection areas) shall be

submitted to the Local Planning Authority for consideration and subsequent approval in writing. Only those details agreed shall be implemented on site.

3. 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.

4. Prior to the development proceeding beyond damp proof course level the final specification of the details of noise mitigation to the habitable rooms of plots 14 – 42 inclusive, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation scheme shall be implemented as approved and validated in writing by the Local Planning Authority prior to the first occupation of each respective dwelling and shall be retained as such throughout the lifetime of the development.

B. That a CIL Liability notice be served for £227,364 as detailed in section 5.5 of the officer's report.

100

**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/19/00086/FUL	Two storey extensions to side and rear of house to create, larger bedrooms, shower room and garden room extension - revised plan received 27 November 2019 at 77 Brushfield Road Holme Hall Chesterfield Derbyshire S40 4XF for Mr K More
CHE/19/00121/ADV	Existing fascia sign over the existing shop front and new fascia sign to the eastern elevation over

	the proposed window opening at 33 Holywell Street Chesterfield S41 7SA for Pinewood Properties
CHE/19/00361/LBC	Listed Building Consent for replacement of various timber doors at Barrow Hill Primary School Station Road Barrow Hill S43 2PG for Barrow Hill Academy
CHE/19/00551/FUL	Demolition of the existing church hall, new extension to be built on the footprint of the previous church hall (bat survey received 11/12/2019) at St Johns Church St Johns Road Newbold S41 8QN for Reverend Griffiths
CHE/19/00588/ADV	New halo illuminated fascia sign above shop front and illuminated projecting sign at 34 Knivesmithgate Chesterfield Derbyshire S40 1RQ for Hidden Hearing
CHE/19/00611/FUL	Ground floor extension to kitchen side. New off street parking. (Revised drawings received 27/11/19) at 73 Coniston Road Newbold Derbyshire S41 8JE for Mr Dan Gerrard
CHE/19/00665/FUL	Two storey extension to rear at 43 Ulverston Road Newbold S41 8ED for Mr and Mrs Wilson
CHE/19/00671/FUL	Single storey extension to front of an existing detached dwelling. New cladding to first floor front elevation. Revised drawing received 17 12 2019 at 4 Upland Rise Walton Chesterfield S40 2DD for Ms Angela Owen
CHE/19/00675/FUL	Provision of artificial grass pitch; car park resurfacing and installation of 11 No flood lighting columns at Staveley Miners Welfare FC Inkersall Road Staveley Derbyshire S43 3WL for Mr Damms
CHE/19/00677/RET	Retention of single storey rear extension to No 102, and raised rear garden levels to No 100 and

	102 Highfield Lane at 100 - 102 Highfield Lane Newbold Chesterfield S41 8BA for Mr G Evans
CHE/19/00678/FUL	First floor side extension (amended block plan, location plan and parking provision received 18.12.2019) at 17 Berwick Close Walton Derbyshire S40 3NY for Mr Daniel Bayliss
CHE/19/00690/FUL	Detached concrete sectional garage. Revised drawing received 07-01-2020 at land to the rear 114 Station Road Brimington Derbyshire S43 1LU for Mr Andrew Bellas
CHE/19/00691/ADV	Illuminated and non-Illuminated signage to the exterior of the building at Sun Inn 13 West Bars Chesterfield S40 1AQ for Hawthorn Leisure Ltd
CHE/19/00699/FUL	Detached dwelling along with garden room and basement at 85 The Green Hasland Chesterfield S41 0LW for Mr S Whitehead
CHE/19/00714/FUL	Demolition of existing conservatory and erection of replacement rear extension at 8 Hucklow Avenue Inkersall Chesterfield S43 3EX for Musgrove
CHE/19/00715/RET	Retention of boundary fence (side of property along footpath/pavement 19m long by 1.92m high) at 1 Fuller Drive Tapton Chesterfield Derbyshire S41 0UG for Mr Jeffrey Fisher
CHE/19/00717/RET	Retrospective consent for the retention of front porch at 16 Chestnut Drive Hollingwood S43 2LZ for Mr Miller
CHE/19/00720/REM1	Variation of condition 2 (materials - to allow use of rubber roofing as metal will be noisy) and removal of condition 10 (ancillary accommodation only to allow use as holiday let) of CHE/17/00804/FUL - Conversion of existing goat shed/stables into holiday let using shared access drive at Poppy Barn 23 Bridle Road Woodthorpe S43 3BY for Mr

Geoff Hall

- CHE/19/00723/FUL Single storey construction for utility/wc and conversion of existing garage to bedroom at 7 Ardsley Road Ashgate Chesterfield S40 4DG for Mr Mike Watkinson
- CHE/19/00755/CA T7 - Noble Fir- Remove. This tree is a constraint to development, and has short term potential only. G1 - A group of self set ash and sycamore - Prune back to boundary. G2 - A collection of conifers forming a low level landscape feature - Remove to allow room for development. To be replaced with native shrubs during landscaping at 97 High Street Old Whittington S41 9LB for Mrs Susan Smith
- CHE/20/00002/TPO T40 and T42 poplars - All round crown reduction by 40% to create high pollard at 178 Broomhill Road Old Whittington ChesterfieldS41 9EB for JM Ground Care Ltd
- CHE/20/00009/TPO T1 Horse Chestnut. Declining tree with basal defects and vertical decay pockets on main stem. Significant fungal presence (Polyporus squamosus) at base and on stem suggest decline has been ongoing for some time. Proposed works to include major crown reduction to stabilise and retention as standing as habitat provision at Trevilla 73 Hady Hill Hady Chesterfield S41 0EE for Mr Gary McCarthy

(b) Refusal

- CHE/19/00120/FUL Increase the window size to the shop front and form a new window opening to the eastern elevation - revised plan received 05.09.2019 at 33 Holywell Street Chesterfield Derbyshire S41 7SA for Pinewood Properties
- CHE/19/00475/FUL Replacement of flat roof with new pitched roof and erection of detached annexe building at 29

Handby Street Hasland S41 0AT for Mr Peter
Hopkinson

CHE/19/00722/DOC Discharge of planning conditions 3 (foul and surface water drainage), 5 (storage space on site), 7 (tree root protection) and 9 (Materials) of CHE/17/00804/FUL - Conversion of existing goat shed/stables into holiday let using shared access of 23 Bridle Road, Woodthorpe at Poppy Barn 23 Bridle Road Woodthorpe S43 3BY for Mr Geoff Hall

(c) Discharge of Planning Condition

CHE/19/00758/DOC Discharge of condition 8 (retention of existing shop front) of CHE/15/00676/FUL - Change of use and internal refurbishment of former department store to hotel (C1), independent ground floor units (A1/A3/A4) and basement gym (D2) including new external courtyard and alterations to servicing, demolition of bridge, fire escape stair tower and single storey link block and erection of a single storey rear extension at former Department Store Knifsmithgate Chesterfield for Jomast Developments

(d) Prior notification demolition approve

CHE/19/00698/DEM Demolition of former Chesterfield Hotel at Chesterfield Hotel Malkin Street Chesterfield Derbyshire S41 7UA for Prestige Hotels (Midland) Ltd

(e) Prior notification approval not required

CHE/19/00742/TPD Single storey rear extension at 32 Rhodesia Road Chesterfield Derbyshire S40 3AL for Mr Daniel O'Donnell

101 **APPLICATIONS TO FELL OR PRUNE TREES (P620D)**

*The Development Management and Conservation Manager reported that pursuant to the powers delegated to him he had determined the under-mentioned applications in respect of:-

(a) The felling and pruning of trees:-

CHE/19/00751/TPO	Consent is granted to the pruning of one Sycamore tree reference T4 on the Order map for Mr Hawksworth of 32 Hillside Drive, Walton.
CHE/19/00692/TPO	Consent is granted to the pruning of one Oak tree reference T2 on the Order map for Mr Drury of 39 Newbold Back Lane. The tree is located in the rear garden of 46 Bentham Road and overhangs the rear garden of 39 Newbold Back Lane.
CHE/20/00009/TPO	Consent is granted to the The felling of one Horsechestnut tree reference T1 on the Order map for Gary McCarthy on behalf of Chesterfield Borough Council. The tree has severe decay in the main stem and is located next to the entrance to a public park and access to a new development adjacent to Trevilla, 73 Hady Hill. A condition is attached to plant an Oak tree in the public park as near as is reasonably possible to the original tree.
CHE/20/00002/TPO	Consent is granted to the pruning of two Poplar trees reference T40 and T42 on the Order map for JM Grounds Care Ltd on behalf of Broomhouse Nursing Home, Brommhill Road, Old Whittington.

(b) Notification of Intent to Affect Trees in a Conservation Area

CHE/19/00755/CA	Agreement to the felling and pruning
The felling of one Noble Fir and	of trees. The felling and pruning will

a small group of conifers and the pruning of a group of self-set Ash and Sycamore trees to facilitate the development on land adjacent to 97 High Street, Old Whittington for Mrs Smith of DLS Construction Ltd.

have no adverse effect on the amenity value of the area.

The trees are within the Old Whittington Conservation Area and the applicant wishes to fell the trees which are in the location of the approved detached garage and the pruning of trees along the boundary to allow the construction of the garage.

102 **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.

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COMMITTEE/SUB	Planning Committee
DATE OF MEETING	17 th February 2020
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 17th February 2020**

- ITEM 1** Residential development of 20 dwellings with approval of access from worksop road at land to the west of Carpenter Avenue, Mastin Moor, Derbyshire for The Norbriggs Partnership
- ITEM 2** Demolition of existing presbytery, alterations to the existing church building to create a new entrance and new entrance canopy, over cladding of existing windows on the south west elevation and creation of a new hard surfaced car park area for approximately 95 cars (revised pre-development arboricultural report, amended design and access statement, drainage layout plan, illumination layout plan and proposed layout & surfacing plan/section received 23.01.2020, bat & bird survey preliminary roost assessment and revised exterior car park lighting plan received 30.01.2020) at Plymouth Brethern Christian Church, 135 Littlemoor, Newbold, S41 8QP for Plymouth Brethren Christian Church
- ITEM 3** Proposed change of use of 197, from part of the retail unit at 195, to a takeaway, and associated alterations to the shop front, installation of glazing to former doorway to side an installation of an extract flue (shop at 195 old hall road is to be retained) at 195 – 197 Old Hall Road, Chesterfield, S40 1HG for Mr Kapilraj Ganeshalingam and Mr Karisan Kanasalingam

Case Officer: Sarah Kay
Tel. No: (01246) 345786
Ctte Date: 17th February 2020

File No: CHE/16/00114/OUT
Plot No: 2/5345

ITEM 1

ADDENDUM / UPDATE REPORT

RESIDENTIAL DEVELOPMENT OF 20 DWELLINGS WITH APPROVAL OF ACCESS FROM WORKSOP ROAD AT LAND TO THE WEST OF CARPENTER AVENUE, MASTIN MOOR, DERBYSHIRE FOR THE NORBRIGGS PARTNERSHIP

Local Plan: Open Countryside / Other Open land
Ward: Lowgates & Woodthorpe

1.0 CONSULTATIONS

Strategic Planning Team	Comments received 04/02/2020 – see report
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2.0 BACKGROUND

2.1 On 8th August 2016 Planning Committee resolved to approve an outline planning application (subject to S106 agreement) under application reference CHE/16/00114/OUT for the following development:

‘Residential development of 20 dwellings with approval of access from Worksop Road’

2.2 Following the Planning Committee meeting negotiations commenced between the Applicant and Legal team at CBC to progress the S106 agreement; however these discussions stalled due to a land ownership and conveyancing issue arising with the land the subject of the application.

2.3 In 2019 the Development Management team were made aware by the CBC Legal team that the Applicant had been in touch to re-open discussions on the S106 agreement for this planning application; however due to the passage of time since the date of the original Planning Committee resolution it is necessary to re-consider the application proposals against the most up to date

planning policy position. As the decision notice would only have been issued alongside the signing of the S106 agreement, the application remains undetermined and under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 'applications for planning permission must be determined in accordance with the [most up to date] development plan unless material considerations indicate otherwise'.

2.4 The application was previously recommended for approval, as per the report which is attached as Appendix A below.

3.0 **CONSIDERATIONS**

- 3.1 Having regard to the background set out above, there have been several changes to the planning policy background since the resolution of Planning Committee to grant permission for the proposed development. The key ones are:
- The council is now able to demonstrate a five year supply of suitable housing sites
(<https://www.chesterfield.gov.uk/media/918213/five-year-supply-position-april-2019.pdf>)
 - A revised National Planning Policy Framework was published in February 2019
 - A Review of the Green Wedges and Strategic Gaps published August 2016
 - The council's emerging Local Plan has now reached an advanced stage of preparation
- 3.2 The current development plan for Chesterfield Borough still consists of the Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Borough Local Plan (2006). However, there is also an emerging Local Plan (2018 to 2035) – this is currently being examined and was the subject of hearing sessions held in October/November 2019. The Inspectors' initial response has indicated a number of modifications that are currently being prepared for consultation (subject to Cabinet approval). Weight should be given to the emerging policies in accordance with the criteria of para 48 of the NPPF. Where this is relevant to the determination of this application it is highlighted below.

3.3 A key element in the recommendation for approval in August 2016 was the lack at the time of a five-year housing supply and the implications for the application of policies CS10 and EVR2. There was also a potential conflict with the proposed Strategic Gap between Mastin Moor and Netherthorpe (policy CS1 and CS9). In considering how the principle of development should be addressed in the current policy context, the potential conflict with policies CS10, EVR2 and CS9 are therefore the key ones to look at again.

Policy CS10

3.4 Policy CS10 seeks to restrict development on greenfield land, but the policy falls away in the event that the council cannot demonstrate a five-year supply. The council can now demonstrate such a supply, so this exemption no longer applies, and paragraph 11(d)¹ of the NPPF is not engaged with respect to other policies of the plan. The proposal is therefore contrary to Local Plan policy CS10.

3.5 Policy CS10 will be replaced by emerging policy LP4. This continues the broad policy approach, albeit replacing reference to greenfield sites with an approach based on restricting development outside the urban area, which will be identified on the policies map. Policy LP4 is likely to be subject to consultation on modifications and a proposed boundary (which currently excludes the site from the urban area) and only limited weight accorded to it at this stage, although it would not lead to a different conclusion if applied.

Policy EVR2

3.6 The conflict with saved policy EVR2 should be accorded little weight in considering the application given that it is now of some vintage and predates both the current NPPF and emerging Local Plan targets and allocations. However, this on its own does not trigger the provisions of para 11(d) of the NPPF.

¹ d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Strategic Gap (policies CS1 and CS9)

3.7

At the time the application was considered, the council had published indicative boundaries for the Strategic Gap in its Sites and Boundaries consultation (subsequently abandoned in favour of preparing a single Local Plan). The extent of the gap was reviewed in the council's 'Review of Green Wedges and Strategic Gaps' evidence published after the resolution to approve the application was taken. This confirmed the inclusion of the site within the Strategic Gap, which has been carried forwards into the submission Local Plan. No objections were received to the allocation of this Strategic Gap in the emerging plan and therefore substantial weight can be attached to the objective of protecting this gap set out in emerging policies LP1 and LP16. The policies of the adopted and emerging Local Plans seek to protect the character and function of the Strategic Gaps, which are to:

- Maintain open land between neighbouring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements.
- Support appreciation and wider perceptual benefits of open countryside.
- Maintain existing or influence form and direction of settlements.

The development of the land in question would conflict with these objectives and the development would therefore conflict with adopted policies CS1 and CS2 and emerging policies LP1 and LP16.

Accordance with the Spatial Strategy (CS1 and CS2)

3.8

Both the adopted and emerging Local Plans set out the principles of Sustainable Development (in policies CS1 and CS2, and LP1 and LP2 respectively) and the circumstances under which exceptions to the spatial strategy should be considered, these being primarily where development:

- i. needs to be in a specific location in order to serve a defined local catchment or need, to access specific resources or facilities (including transport connections) or to make functional links to other, existing uses; or
- ii. is required to regenerate sites and locations that could not otherwise be addressed or to support existing community facilities that otherwise would be at risk of closure.

- 3.9 As the development would conflict with the Strategic Gap, it does not accord with the Spatial Strategy and cannot be considered 'sustainable development'. There is no indication that the development would meet criteria i set out above. The site is outside, but adjacent to the proposed Mastin Moor Regeneration Priority Area (RPA), but is not relied upon to deliver the housing targets for the RPA set out in the emerging Local Plan. The application would not address the existing vacant building fronting onto the A619 west of Carpenter Avenue. It does not therefore appear that the development could benefit from the exemption in criteria ii.

Conclusions / Summary

- 3.10 When considered in the light of the current Local and National Planning Policy context the proposed development would not be considered 'sustainable development'. There is a clear conflict with Local Plan policy CS10 in that it would result in the loss of greenfield land and open countryside to development; and with policies CS1 and CS9 (and emerging policies LP1 and LP16) as it would result in harm to the character and function of the Strategic Gap. Furthermore there is no evidence of a specific need or regeneration reason for the development that would outweigh the conflict with policy.

4.0 **CONCLUSION**

- 4.1 Having regard to the considerations set out above, and the passage of time since the original Planning Committee resolution (almost 3.5 years), it is entirely necessary to re-consider the merits of the application proposals against the most up to date development plan.
- 4.2 There have been substantial changes in both local and national planning policy since the 2016 resolution, which require the Local Planning Authority to reconsider the development proposals afresh.
- 4.3 Based upon the considerations set out in section 3.0 of this addendum / update report the site is no longer considered to be an appropriate site for residential development, having regard to the latest planning policy position.

- 4.4 In addition to these matters, whilst the applicant has sought to simply re-commence negotiations on the S106 matters, the age of the supporting studies which accompany the original application submission are also of concern. Previous studies on ecology and targeted protected species, for example, would now be considered out of date. Their content which dates back to 2015 / 2016 therefore cannot be relied upon to inform a decision taken in 2020. It is also therefore considered that there is insufficient information available to assess the most up to date impacts of the development proposals upon ecology / biodiversity.

5.0 **RECOMMENDATION**

- 5.1 As concluded, it is therefore recommended that the application be **REFUSED** for the following reason:

1. The site the subject of the application is open countryside and is a greenfield site, which is also located in an area which has been identified as a strategic gap.

Under the provisions of policies CS1 and CS2 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 the purpose of the ‘strategic gap’ is to a) maintain open land between neighbouring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements, b) support appreciation and wider perceptual benefits of open countryside, and c) maintain existing or influence form and direction of settlements.

It is considered that the development proposals will encroach into an area which has been identified to serve as a strategic gap thereby harming the purpose and character of the strategic allocation. Furthermore in respect of policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 the policy requirement is clear in its aim that greenfield led housing development will not be accepted where the Local Planning Authority is able to demonstrate a 5 year housing land supply.

Given that the Local Planning Authority is currently able to demonstrate a 5 year housing land supply greater weight is afforded to this position. It is not considered that there are

wider social, economic or environmental benefits in allowing the development that outweigh the harm identified and the development would therefore be contrary to the provisions of policy CS1, CS2, CS10 and EVR2 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider provisions of the National Planning Policy Framework and it is therefore unacceptable.

2. It is a requirement of the National Planning Policy Framework paragraph 175 that the Local Planning Authority apply the principles set therein for the protection of biodiversity; and policy CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance. In this context it is considered that insufficient information has been submitted to determine the potential impacts of accepting the principle of development on this site upon ecology and targeted protected species and therefore the proposed development does not fully accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS9 of the Chesterfield Local Plan: Core Strategy 2011-2031.

**APPENDIX A – PREVIOUS COMMITTEE REPORT FOR APPLICATION
CHE/16/00114/OUT**

Case Officer:	Sarah Kay	File No:	CHE/16/00114/OUT
Tel. No:	(01246) 345786	Plot No:	2/5345
Ctte Date:	8 th August 2016		

ITEM 3

**RESIDENTIAL DEVELOPMENT OF 20 DWELLINGS WITH APPROVAL OF
ACCESS FROM WORKSOP ROAD AT LAND TO THE WEST OF
CARPENTER AVENUE, MASTIN MOOR, DERBYSHIRE FOR THE
NORBRIGGS PARTNERSHIP**

Local Plan: Open countryside / other open land
Ward: Lowgates & Woodthorpe

1.0 CONSULTATIONS

DCC Highways	10/03/2016, 01/06/2016 & 20/07/2016 – comments received – see report
Lead Local Flood Authority	04/04/2016 – comments received – see report
Environment Agency	11/03/2016 – no comments / objections
C/Field Canal Trust	14/03/2016 & 13/05/2016 – comments received – see report
Crime Prevention Design Advisor	15/03/2016 – no comments / objections
Coal Authority	23/03/2016 – comments received – see report
CBC Design Services	23/03/2016 – comments received – see report
Derby & Derbyshire DC	23/03/2016 & 20/05/2016 -

Archaeologist	comments received – see report
Staveley Town Council	24/03/2016 – comments received – see report
Yorkshire Water Services	24/03/2016 – comments received – see report
CBC Housing	30/03/2016 – comments received – see report
Derbyshire Wildlife Trust	06/04/2016 & 08/07/2016 – comments received – see report
CBC Tree Officer	08/04/2016 – comments received – see report
CBC Urban Design Officer	11/04/2016 & 13/05/2016 – comments received – see report
CBC Environmental Services	14/04/2016 – comments received – see report
CBC Economic Dev. Unit	15/04/2016 – comments received – see report
DCC Strategic Planning	26/04/2016 – comments received – see report
CBC Conservation Officer	01/06/2016 – comments received – see report
Ward Members	No comments received
Site Notice / Neighbours	Nine letters of representation received

- 2.1 The application site measures approximately 0.68ha and is located to the north side of Worksop Road and to the west of the residential properties at Carpenter Avenue. The site is a parcel of Greenfield land and is currently vacant and overgrown.



- 2.2 The site lies within the Open Countryside area as set out in the Chesterfield Borough Local Plan Proposals Maps. The surrounding area to the east is mainly residential in character with a range of properties at Carpenter Avenue as well as a small row of cottages fronting Worksop Road to the south.
- 2.3 To the south of Worksop Road is the Grade II Listed Building at Norbriggs House. To the west and north west of the site beyond the boundary trees is further open countryside and a playing field.
- 2.4 The site is largely overgrown with dense shrubs and bramble. It was once used as a nursery site. Hedgerows and trees lie to the west and southern boundaries. Access into the site is currently available from the public footpath FP22 to the west of the site and which runs along the route of the former Norbriggs Cutting. There are currently no vehicular access arrangements into the site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0385/0183 - Permission for residential development. Refused on 16/12/1985 for the following reason:

01. The proposed development would lead to the formation of a new street access which could not be provided in accordance with appropriate standards of visibility and junction spacing. This would give rise to vehicles entering, leaving and crossing the principal road carriageway to the detriment of other road users.

4.0 **THE PROPOSAL**

- 4.1 This application is for outline planning permission for the residential development of 20 dwellings with details of access to be approved as per the submitted Indicative Site Layout Plan. All other matters including layout, landscaping, appearance and scale are to be reserved for approval at the reserved matters stage.
- 4.2 An indicative layout has been provided in order to illustrate the details of the access arrangements into the site and the potential density, scale and siting of the proposed residential properties.
- 4.3 The application submission is supported by the submission of the following plans and reports:
- Indicative Site Layout, Location Plan and Topographical Surveys;
 - Planning Statement prepared by DLP Planning dated February 2016;
 - Design & Access Statement prepared by DLP Planning dated February 2016;
 - 5 Year Housing Supply Report prepared by DLP Planning dated February 2016;
 - Transport Statement prepared by Infrastructure Planning & Design Ltd;
 - Phase I Geotechnical and Geo-Environmental Site Investigation report prepared by Eastwood & Partners dated July 2015;
 - Drainage Technical Note prepared by Infrastructure Planning & Design Ltd;
 - Extended Phase I Habitat Survey and Protected Fauna Survey prepared by Whitcher Wildlife Ltd dated October 2015 and updated June 2016;
 - Bat Intersect Surveys prepared by Whitcher Wildlife Ltd dated September 2015;
 - Great Crested Newts DNA Examination Technical Report prepared by SureScreen Scientifics dated June 2016;

- Tree Survey prepared by Anderson Tree Care;
- Highways Technical Note prepared by Infrastructure Planning & Design Ltd dated June 2016.

5.0 **CONSIDERATIONS**

5.1 **National / Local Planning Policy**

5.1.1 The site the subject of the application is land allocated as Open Countryside / Other Open Land which is a protected allocation of Policy EVR2 from the 2006 Local Plan, which was saved alongside the adoption of the Chesterfield Local Plan: Core Strategy 2011 - 2031. Having regard to the nature of the application proposals and the allocation above policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development (5 Year Supply, Spatial Strategy & Strategic Gap)**

5.2.1 The site is currently designated as Open Countryside under saved policy EVR2 of the 2006 Local Plan. This policy has been saved until the Local Plan; Sites and Boundaries have been adopted. Under policy EVR2 residential development would not normally be permitted. The site is also within an area identified as a Strategic Gap in policy CS1 of the adopted Core Strategy (a provisional boundary, which includes the site, was published as part of consultation on Options for a Sites and Boundaries DPD in 2012) to which policy CS9 applies. Policy CS10 of the recently adopted Local Plan Core Strategy (adopted July 2013), also states that residential development on greenfield sites that are not in an adopted Local Plan will not normally be permitted whilst the Council is able to demonstrate a supply of deliverable housing sites sufficient for five years.

- 5.2.2 The council is not currently able to demonstrate the required 5 year supply of deliverable land for housing, however, and as such, other local and national policies come into consideration. The policy implications of the lack of 5 year supply of housing land are primary considerations and will be dealt with first.
- 5.2.3 In particular, paragraph 49 of the National Planning Policy Framework stipulates that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a 5 year supply of deliverable housing sites. A recent Court of Appeal decision (Richborough Estates vs Cheshire East District Council) has determined that paragraph 49, any development plan policy that restricts provision of housing is therefore a "relevant policy for the supply of housing". In this case this is taken to include policies EVR2 and CS9 insofar as it relates to the Strategic Gap. Policies rendered 'out-of-date' by Para 49 should not be ignored, but it is up to the council to determine what weight should be placed on them, taking into account factors such as the councils' actions to remedy any shortfall, the purpose of the particular policy, the extent of the shortfall and the circumstances of the application and other material considerations. Paragraph 14 of the NPPF states that where relevant policies are out-of-date; development should be approved unless the adverse impacts of doing so would outweigh the benefits or specific policies of the NPPF indicate that development should be restricted.
- 5.2.4 Policy CS10 of the Local Plan is clearly worded in such a way that the limitation on greenfield development falls away in these circumstances. It is a general policy that restricts development in the open countryside regardless of the particular character of the site or landscape in question. It is therefore considered that little, if any, weight can be given to policy EVR2.
- 5.2.5 Policy CS9, insofar as it applies to the Strategic Gap, is intended to fulfil a specific purpose relating to the character and function of the specific area of and between Mastin Moor and Netherthorpe. Policy CS9 states that development should 'not harm the character or function of the ... Strategic Gaps'. The council's 'Green Wedges and Strategic Gaps indicative Assessment' (2011) defines the role of Strategic Gaps as:
- The need to protect the setting and separate identify of settlements, by avoiding their coalescence.

- The need to retain the openness of the land by resisting greenfield growth, and thus conserving the existing character of an area in terms of its current mix of urban and rural development.
- The need to provide real access and recreational benefits to urban dwellers, and the perceived (psychological) as well as real benefits of having open countryside near to where people live.

5.2.6 The development of this site would bring the settlements of Mastin Moor and Netherthorpe closer together at its narrowest point, albeit no closer than development on the southern side of the A619 and as Woodthorpe currently does. The land is currently overgrown and treed; the removal of this landscape would affect the openness of the land, however mature planting along the western boundary of the Norbriggs Cutting, if retained and enhanced (see below) would continue to provide a clear, defined 'edge' to the eastern side of the Strategic Gap if the site were developed. There is already good access to the open countryside via the Footpath 22 along the Norbriggs Cutting and there will be opportunities to enhance this (see below).

5.2.7 This must be balanced against the current housing supply position. The latest published position (April 2015) is that the borough can demonstrate a 4.1 year supply of housing, once the shortfall in delivery and a 20% margin for 'persistent under delivery' is taken into account. Monitoring of housing delivery for 2015-16 is currently underway and a number of significant planning permissions for housing have been granted since April 2015, including 300 at land west of Dunston Lane, 146 at the former Cammac Coal site, 150 at Wheeldon Mill and 103 at Bevan Drive, Inkersall. The council is also currently preparing a review of the Local Plan with publication of a draft plan set for September/October 2016, and releasing council owned land at Holme Hall for a further 300.

5.2.8 On balance, although the council cannot currently identify and demonstrate a five year supply of deliverable sites, there are steps in place to address the shortfall. The development would undoubtedly result in a practical narrowing of the strategic gap, but with appropriate mitigation it would not have a significant impact upon the perceived openness of the overall settlement gap in this area and could result in improved access to open countryside.

Therefore in this case, whilst it is appropriate to have regard to the Strategic Gap policy as set out in policy CS9, in this case the limited harm that would arise to the character and function of the gap and so limited conflict with CS9 would be outweighed by the delivery of housing.

- 5.2.9 Policy CS1 states that the overall approach to growth will be to concentrate new development within walking and cycling distance of centres, and to focus on areas that need regenerating. The site is at the limit of reasonable walking and cycling distance from Staveley Town Centre, but Mastin Moor is specifically mentioned as a Regeneration Priority Area where the council will 'seek to maximise development opportunities that offer regeneration benefits'.
- 5.2.10 In terms of policy CS2, 'Principles for the Location of Development', the application does not meet criteria (b) ('are on previously developed land'), but does meet the other tests set out. As regards (d) 'delivers wider regeneration benefits ... to the area', there is potential for restoration/improvement of the Norbriggs Cutting and the development would also generate CIL income, a proportion of which would go directly to Staveley Town Council for local use. Policy CS13 also requires the implementation of a Local Labour Clause.
- 5.2.11 The principle of residential development of this site can therefore be accepted at this time.

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

- 5.3.1 The site occupies an area of approximately 0.66 hectares. The application proposes 20 dwellings. This equates to a density of 30dph, which represents a standard suburban density.
- 5.3.2 However, the site contains a number of constraints that may influence the ability to accommodate the amount of development proposed. In particular Yorkshire Water has identified the presence of a sewer passing through the southern part of the site (see drainage / flood risk section below). This has a 4m wide easement associated with the sewer that would affect the ability to develop within this corridor, unless the sewer can be moved/diverted at the developers expense. As no utilities

information accompanies the submission, it is unclear whether other services may exist within the site that might result in similar impacts but it is assumed that this would information would be obtained to inform any reserved matters submission.

- 5.3.3 In its initial submission the site layout proposals fail to acknowledge the presence of the Norbriggs Cutting as an undesignated heritage asset (however during the application process a heritage statement was sought to respond this issue and this is considered in more detail in the heritage / archaeology section below). At present the indicative proposals show the northern part of the layout encroaches across the cutting with the access road and Plots 16-17 built over the former canal. If the significance of the canal is determined to be an important factor this would also influence the ability to accommodate the amount of development sought.
- 5.3.4 Notwithstanding the uncertainties around potential constraints on the layout shown, in general terms the layout appears to respond positively to the edge of settlement position and the awkward shape of the site. The buildings are mainly outward facing and would positively address the new street, existing footpath and the western boundary with the countryside. Some frontage parking is indicated. This would need to be carefully designed and landscaped in order to be acceptable. The garage positioned on the end gable of Plot 11 relates poorly towards the streetscene as does the garage position of Plot 20 which is highly visible at the entrance into the scheme. The arrangement of these areas would need to be revisited. Elsewhere parking is integrated between units and would appear relatively discrete within the streetscene. Rear gardens would need to achieve a minimum separation distance of 10.5m where abutting existing neighbouring properties and ensure that garden sizes meet or exceed the minimum requirements set out within the Successful Places SPD (2013 – sec. 9.11 Amenity).
- 5.3.5 The access road indicated on the indicate site layout plan appears narrow and includes no footways beyond the initial entrance. A footway on the eastern side of the carriageway should be provided, which may create a number of pinch points. Local Authority Refuse Collection Vehicles (RCV's) will not enter private drives to undertake bin collections, so an access road of this length would need to be adopted as public highway. If a private drive is intended

this could potentially result in excessive and unacceptably long bin carry distance to an appropriate bin collection point and therefore any reserved matters submission would need to consider these issues amongst other identified above. The turning area at the northern end of the layout appears awkward and it is uncertain whether a service vehicle is capable of turning within the available space. Vehicle tracking drawings would be required to demonstrate that the service vehicles can turn within site in an acceptable way. This should be based upon an RCV size of 11.5m.

- 5.3.6 Scale is a reserved matter although the submission indicates that house types ranging from bungalows to 2.5 storey houses could be accommodated on this site. This range of options is acceptable in principle, although the details of any future configuration would need to be carefully designed in response to site considerations e.g. its gateway position to Mastin Moor and Woodthorpe, the setting to Norbriggs House opposite, the relationship to the countryside and the neighbouring dwellings on Carpenter Avenue.
- 5.3.7 Landscaping is a reserved matter however, details of hard and soft landscape design will be an important aspect of the design of any scheme given the edge of settlement position of site. Details should be conditioned.
- 5.3.8 Boundaries between the site and the public right of way will be important in terms of how the interface is created between the two. Plots 17, 18 and 20 are particularly sensitive as well as frontages and exposed side garden boundaries within the site. The details of all boundary treatments, including the boundary running alongside Footpath 22 should be subject of a suitably worded condition requiring details to be first submitted to and approved by the LPA. Access to the rear gardens of mid-terrace units will be required. Rear access paths should be avoided and ginnel passages introduced to ensure rear access can be achieved without the need to pass through the dwelling (see Successful Places SPD (2013 – sec. 3.19 Servicing)).
- 5.3.9 Appearance is also a reserved matter however, the design and appearance of the buildings would need to have regard to its context, including the setting of the nearby listed building. Details of materials should be conditioned.

- 5.3.10 Although the application is in outline (other than means of access), the indicative layout submitted with the application appears to show housing and the access road on the route of the cutting and presents no indication of any improvements to the footpath.
- 5.3.11 The proposed development should ensure that the footpath through the site is improved to greenway standard within the site, and that the full extent of Norbriggs Cutting is preserved and restored. The planting on the western boundary should be retained and enhanced so as to present a strong, natural boundary to the Strategic Gap. These requirements should be secured through planning conditions and/or planning obligations.
- 5.3.12 Having regard to the design and appearance concerns raised above at this stage the detailed design is yet to be undertaken. Nevertheless, as a major site it will be important to ensure that the quality of the built environment achieves the objectives set out under the NPPF and NPPG that a good standard of design is achieved in a manner that supports the positive characteristics and local distinctiveness of Chesterfield. It is considered that in respect of design, appearance and amenity issues the proposals (subject to reserved matters) can be suitably designed to demonstrate accordance with the requirements of policy CS18 of the Core Strategy and the principles set in the Successful Places SPD if the above points of concern are taken into account and therefore the principles / outline considerations of a scheme of up to 20 dwellings on this site are in respect of design and appearance considerations acceptable. It is noted that a number of site constraints are highlighted and these would need to be addressed appropriately and any subsequent reserved matters submission would need to respond to these with an appropriate density. It is considered however that if dwellings and the roadway were to be amended to avoid the former Norbriggs Cutting area then the density on the remainder of the site could be increased to maintain the number of units without significant impact on the character of the scheme which would be achieved.

5.4 **Highways Issues**

- 5.4.1 The application submission has been supported by the preparation of a Transport Statement prepared by Infrastructure Planning & Design Ltd and Highways and a subsequent Technical Note prepared by Infrastructure Planning & Design Ltd dated June

2016. Both of these documents have been reviewed by the **Local Highways Authority (LHA)** who offered the following comments:

'The submitted details propose a development of 20no. residential units served via a new junction with Worksop Road (A619) and include a Transport Assessment supporting the development.

The Highway Authority has stated that it is reasonably satisfied that a junction can be formed with the A619 but this is dependent on provision of requisite exit visibility as determined by the results of a speed survey and submission of a Transport Statement to demonstrate that operation of the signalised junction will not be affected.

The Transport Statement makes reference to three original access options of which Option 2 is the preferred layout. Whilst I have no written record of Highway Authority preference for this option, it's considered that there would be some operational benefit in having a carriageway of sufficient width to accommodate a vehicle turning right into the site whilst allowing some free flow of westbound traffic. Although there does not appear to be any information concerning perceived impact on operation of the junction post development, when bearing in mind the predicted level and nature of vehicular activity likely to be generated by the proposals, it's considered that provision of a layout such as that shown would reduce the likelihood of any significant harm to operation of the existing signalised junction.

The proposed junction layout drawing demonstrates introduction of a longitudinal joint in the carriageway surfacing that would not be permitted. The detail design will need to demonstrate shaping of the carriageway surfacing and any permitted/ feasible longitudinal joint would need to be located away from the perceived line of wheel tracking.

A consequence of providing a new junction as demonstrated is the need to relocate the existing bus stop lay-by although the replacement lay-by shown does not appear to meet the geometrical requirements of this Authority i.e. 20m lead in taper; 18m straight run of kerbs with raised section for boarding; exit taper of 15m; width between tapers of 3.0m. The Transport Statement highlights that an existing speed camera will require relocation to accommodate this although there is no detail of where

this may be to and the appended drawings are annotated to the effect that it will remain as existing. A revised drawing demonstrating a lay-by of the correct dimensions and affect on any existing street furniture/ apparatus (speed camera, signs, lighting columns, etc.) should be submitted for approval.

The content of the Statement would suggest that some liaison with this Authority's Traffic Signals Section has taken place as it's stated that no reconfiguration of traffic detectors is required due to the predicted low level of traffic that may be generated by the site. I have no reason to doubt this but would ask if any advice has been sought as yet with regard to relocation of the speed camera.

The proposed junction layout drawings show relocation of the existing bus shelter that is within the ownership of your Authority. However, it's suspected that this will need to be a replacement as, due to age of the shelter, relocation of the existing one is unlikely to prove practical. This Authority's Transport Unit would normally act as Agent in cases such as this and advice with respect to shelter specification can be obtained from them (tel:- 01629 536745).

The Highway Authority has previously advised that the proposed visibility sightlines are supported by the results of a traffic speed survey and adjusted for gradient on approach from the west. Taking no account of gradient, desirable exit visibility where vehicle approach speeds are 40mph is 2.4m x 103m to the nearside carriageway channel in each direction. Absolute minimum is 2.4m x 82m but this does not take account of gradient. I strongly suspect that 85%ile approach speeds from the east will be at or below the speed limit due to the presence of the speed camera, however, there is no similar facility on the A619 to the west of the site. That said, a visibility splay of 2.4m x 90m has been demonstrated to the nearside carriageway edge in each direction and, subject to the speed camera remaining in a similar (if not the same) location and taking into account that overtaking through the signalised junction is extremely unlikely to occur, I consider that the proposed visibility sightlines are acceptable without need of further supporting evidence.

As layout has been reserved, I shall only make brief comment on the feasibility layout plan. The indicative road layout submitted is the same as that provided at pre-application stage at which time it

was pointed out that the layout should generally comply with the recommendations of the 6C's Design Guide with suitability for use by a Large Refuse Vehicle being demonstrated by means of swept path analysis. Each unit should be located within the recommended maximum mancarry distance of 25m from the proposed road or a turning facility suitable for use by a typical supermarket delivery vehicle and provided with off-street parking on the basis of 2no. or 3no. spaces of 2.4m x 5.5m minimum dimension per 2/3 or 4/4+ bedroom dwelling respectively. Private driveways should be located at, or close to, 90° to the proposed carriageway channel and provided with exit visibility commensurate with the design speed of the new road. In addition, if adoption of the new road is to be pursued, an extended Maintenance Period is likely to be required due to the perceived subsidence risk and extent of adoption could be affected where there is a lack of frontage development.

Therefore, it's recommended that the applicant is requested to submit revised details to satisfactorily address the above issues however, if you are minded to approve these proposals as submitted, it's recommended that the following Conditions are included within the Consent:-

- 1. Before any other operations are commenced, detailed designs indicating the proposed junction with Worksop Road (A619) and bus stop lay-by layouts, including all relocation and/ or removal of existing street furniture/ apparatus, shall be submitted to the Local Planning Authority for written approval.*
- 2. Before any other operations are commenced, (excluding Condition 1 above), the new bus stop lay-by shall be formed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.*
- 3. Before any other operations are commenced, (excluding Conditions 1 and 2 above) the new junction with Worksop Road (A619) shall be formed in accordance with the approved detailed designs 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 90 metres in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object above ground level relative to adjoining nearside carriageway channel level.

- 4. Before any other operations are commenced, (excluding Conditions 1, 2 and 3 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.*
- 5. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.*
- 6. 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 6C's Design Guide.*
- 7. No development shall take place until construction details of the residential estate road and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.*
- 8. The carriageway of the proposed estate road shall be constructed in accordance with Condition 7. 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. The carriageway 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 carriageway, 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.

- 9. The sole means of vehicular access to the application site shall be from Worksop Road (A619) only. There shall be no means of access to the Public Right of Way adjacent to the western boundary of the site and to this end, a permanent physical barrier shall be erected across the entire site frontage all as agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.*
- 10. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the off-street parking of residents/ visitors 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.*
- 11. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.*
- 12. The proposed access driveways to the proposed estate street shall be no steeper than 1 in 14 for the first 6.0m from the nearside highway boundary and 1 in 10 thereafter.*
- 13. 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.*

14. *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 existing and proposed highway. The approved scheme shall be undertaken and completed prior to the first use of the accesses and retained as such thereafter.*
15. *No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:*
 - i. *provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;*
 - ii. *include a timetable for its implementation; and*
 - iii. *provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.*
16. *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.'*

5.4.2 Following receipt of the comments from the LHA above the applicant prepared an additional Technical Note which was submitted in June 2016 to address the issues the LHA had highlighted. The following comments from the LHA were subsequently received:

'I refer to your request for highway comments on the attached Technical Note.

The Note includes detail generally concurring with the views of the Highway Authority although it's clear that the intention is to provide a detailed junction design at a later stage in the planning process. As access is not a reserved matter a more detailed design would be of benefit, however, this Authority has indicated that we are reasonably comfortable that an acceptable junction layout can be delivered and, this being the case, the previously recommended Condition requiring a detail design to be prepared and approved prior to commencement of any other works is considered to remain appropriate.

If the later submission of a detail junction design is acceptable to you, there would be no highway objection to the approach suggested within the Note.'

5.4.3 Having regard to the comments received from the LHA above notwithstanding the fact the application is submitted with access to be considered in detail this does not preclude the LPA from accepting the scheme despite the exact detail of the access not being agreed / accepted at this stage. It is not unusual for outline permission to be granted with the need for the access to be further revised.

5.4.4 In this instance the LHA has indicated that an appropriate access solution is achievable and given that there is need for the site layout to be revised (as per other material considerations set out in respect of design / heritage / drainage) the LHA has provided a list of suggested conditions which can be imposed to appropriately address any highway safety concerns they might have expressed in their comments above. Overall therefore given that it is feasible to provide an appropriately designed access to the site the subject of condition or reserved matters detail it is not considered that planning permission could be refused on the grounds of highway safety. Accordingly it is considered that the application proposals

can subject to detailed design accord with the provisions of policies CS2, CS18 and CS20 of the Core Strategy and wider NPPF in respect of highway safety.

5.5 **Heritage / Archaeology**

- 5.5.1 As mentioned in the design and appearance section above the route of the former Norbriggs Cutting, a branch of the Chesterfield Canal which terminated at Worksop Road to serve the Norbriggs Colliery lies within the application site boundary. The cutting largely remains, albeit, overgrown. Although not a designated heritage asset, it is nevertheless an important piece of industrial archaeology dating from 1777. Policy CS19 of the Local Plan states that the council will protect the historic environment and heritage assets, including through “d) the identification and, where appropriate, protection of important archaeological sites and historic environment features”. The route of the cutting is also identified in connection with policy CS20 on the ‘Chesterfield proposed Strategic Cycle Network’ (diagram 7, page 83) as a proposed Greenway. Policy CS20 requires development proposals to prioritise pedestrian and cycle access to and within the site and to protect and improve the strategic pedestrian and cycle network. Furthermore, policy CS14 states that proposals for the restoration and enhancement of Chesterfield Canal will be encouraged.
- 5.5.2 The NPPF states that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s Conservation” (para 132). In addition “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset” (para 135). As shown on the submitted layout, the proposal would lead to the loss of the majority of the cutting. Chesterfield Canal is a significant heritage asset for the borough, as demonstrated by its inclusion with the Strategic Objectives of the Local Plan Core Strategy (objective S12 “Restore the Chesterfield Canal to a navigable state along all its length within the borough”) and the council’s direct involvement in the Chesterfield Canal Partnership, which has demonstrated significant gains in restoring the canal to date.

5.5.3

In consultation with the Council's **Conservation Officer**, the **Derby and Derbyshire DC Archaeologist**, **Chesterfield Canal Trust** and the **Urban Design Officer** the applicant was invited to prepare and submit a Heritage Statement, which was required following these consultees raising concerns that the presence of the Canal Cutting had been ignored in the preparation of the indicative site layout plan. A Heritage Statement prepared by Humble Heritage was subsequently received and its review was undertaken by these consultees who raised the following comments:

Conservation Officer

'Norbriggs Cutting was originally part of the historic Chesterfield Canal (the latter opened in 1777). The restoration of the Chesterfield Canal has been ongoing for a number of years, driven mainly by the work of the Chesterfield Canal Trust and Derbyshire County Council, as well as partners on the Chesterfield Canal Partnership (which includes the local authority areas the canal is located in (Chesterfield, Bassetlaw, North East Derbyshire, Rotherham. Notts, Derbyshire), the Canal & Rivers Trust and Inland Waterways Association). The restoration of the canal has been very successful with only a few miles of the eastern section now remaining out of water. Once fully restored, a navigable waterway would stretch from Chesterfield Town centre (Waterside) to the River Trent at West Stockwith in Nottinghamshire. Consequently, in addition to being a significant and important heritage asset, the canal is a key regeneration and restoration project for Chesterfield Borough and much wider area, potentially bringing in significant amounts of tourism, visitors and investment.

I would only support the above application if the Norbriggs Cutting section of the Chesterfield Canal was protected and not sterilised against future canal restoration. Development should also acknowledge the potential of future restoration by careful attention to housing design (e.g. orientation) and setting. Notwithstanding the applicant's sympathetic intent to fill sections of the cutting (with an emphasis on protecting the route and archaeology), I notice that a number of plots would be constructed over the latter section, closest to the main road access, hence there would be some sterilisation. There appears to be an assumption in the Heritage Statement that Norbriggs cutting will never be restored. Whilst in the short-term (given current priorities and resources) Norbriggs

Cutting is unlikely to be prioritised for restoration, this situation could change in the future, particularly given the uncertainty over HS2 (new priorities may have to be sought as a result of the final route, should HS2 continue).

I note this application is in outline. I would recommend the applicant revises the proposed layout with the aim of avoiding any impacts on the Norbriggs cutting route. The objective should be to avoid negating the potential for future restoration (this should include avoiding any impacts on any archaeological assets). This approach would be more consistent with the National Planning Policy Framework (particularly paragraphs 128 – 136) which clearly states that planning applications that will cause harm to heritage assets should be refused (para 133).'

Derby and Derbyshire DC Archaeologist

'The heritage statement shows that there is probably good survival of the Norbriggs Branch of the Chesterfield Canal within the proposal site; however, the canal is partial infilled and very overgrown, and it has not been possible to identify any surviving structures – retaining walls etc – on the ground.

The Chesterfield Canal in its entirety is a regionally important heritage asset with good preservation of historic canal features and fabric. There is an intention (see response from the Chesterfield Canal Trust) to restore the canal in its entirety. Although it is unlikely that the Norbriggs Branch would be a priority in this process, it is noteworthy that the branch currently appears to survive in its entirety.

Map evidence suggests that there was a wharf at the southern end of the canal – originally extending to the east of the canal cut beneath and to the east of the present site of 3 Worksop Road, and subsequently reorientated west of the canal to the north of 1 Worksop Road. Archaeological evidence for these wharves may survive below ground.

The heritage statement suggests that it is proposed to complete the infilling of the canal, thus preserving the below-ground archaeology. This suggestion is at odds with the feasibility layout presented on plan LDS/14/300/01, which shows the southern end of the canal impacted by housing (plots 18, 19, 20). The applicant's presentation of impacts to the canal is therefore unclear, and does

not meet the requirements of NPPF para 128 in that it is not currently possible to understand impacts to the heritage asset.

Furthermore, although complete infilling of the canal would preserve its below-ground remains, it would be harmful to the significance of the heritage asset in that it could no longer be 'read' in the contemporary landscape. NPPF para 131 suggests that local planning authorities should take into account "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness." I feel that these aims would be better achieved were the canal remains to be incorporated, consolidated or referenced within the landscaping plan for the site. For example, initial clearance of vegetation would ascertain whether any retaining walls or wharves survive: any such 'hard' features could be consolidated and retained, while the line of the canal could be represented through retention of a swale, or through landscaping/planting.

To summarise, therefore: the application does not at present meet the requirements of NPPF para 128, in that the plans and heritage statement are not in agreement on the proposed treatment of the canal at its southern end. A revised plan/heritage statement should be submitted to clarify this issue. In addition, I recommend that the applicant consider a more sympathetic landscape treatment to the former canal than simply infilling, as outlined above.'

Chesterfield Canal Trust

'Thank you very much for the opportunity to have a look at the Heritage report on the development site at the end of the Norbriggs cutting. We are delighted that the towpath and canal cutting will not be adversely affected by the proposed development and will be preserved.

However we do have a concern over the statement that this section of the canal will never be restored and we do appreciate that the statement came from the document 'Next Navigation West' much of which was prepared before the reductions in local government finance, and also before the announcement of the Initial Preferred Route for HS2 Phase 2 in January, 2013. Since

the time of Next Navigation West's publication, budget reductions and rail proposals have meant that the whole art/science and economics of canal restoration have had to be rethought and greater income generation has become vital for the future maintenance of the restored canal, especially as the section within Derbyshire is owned and maintained by Derbyshire County Council. Potentially, the Norbriggs cutting could be required as a generator of income from residential moorings. Also with the current uncertainties over the proposed route for HS2 (which is likely to have a considerable impact on the canal) the Norbriggs Arm may need to be restored as an alternative route for the canal. Discussions about the potential use of the Norbriggs cutting as an alternative route for the canal formed an important part of the Trust's submission to Government in the Public Consultation on the Initial Preferred Route for HS2

Whilst we cannot say for sure if this arm of the canal will be needed or not we feel that the developer needs to be aware that there may be a requirement to restore the Norbriggs Arm at sometime in the future.

If the affected section of the Norbriggs cutting is preserved as detailed in the heritage report and the future viability for future restoration is preserved, the Trust would not oppose the proposed development.

As to factual accuracy, there is an error in the heritage report : Para 5.04 should not say 1777. One of the reasons for making the Norbriggs cut was to get traffic onto the canal from the Chesterfield/Worksop turnpike (now A619) whilst the Staveley Puddlebank was being constructed. The date should be 1776.

The Canal Trust's historian has requested that the developer be required to provide and install accurate information boards to interpret the history and heritage of the Norbriggs cutting, where they can be easily seen by the public, as a condition of the application. The Trust would be pleased to advise on content.'

Urban Design Officer

'The contents of the Heritage Statement indicate that the canal branch remains of local importance due to its association with the Chesterfield Canal, Norbriggs Colliery and engineer James Brindley, although its original form has become heavily degraded.

However, the loss of only a limited extent of the former canal would have only a limited impact on this undesignated heritage asset. It is recommended that advice is sought from the Conservation Officer in respect of its conclusions.

The submission of the Heritage Statement does not fundamentally change the conclusions of my initial consultation response insofar as the amount of development able to be accommodated is likely to be influenced by the presence of a sewer and easement corridor as well as the awkward form of the site. This is likely to reduce the amount of houses that can be accommodated satisfactorily.'

5.5.4 Having regard to the comments which have been received above it is noted that all on the consultees consider the submitted indicative site layout plan to be unsatisfactory however on the basis the application is submitted in outline with all matters apart from access reserved there is a clear opportunity for any prospective developer to review the concerns raised and respond in a reserved matter submission with a revised layout which takes account of the issues highlighted above in respect of the canal cutting.

5.5.6 As already highlighted in the design and appearance section above, appropriate conditions can be imposed on any subsequent outline permission to ensure the proposed site layout addresses preservation of the canal cutting and its integration into a scheme alongside the footpath enhancement measures to the satisfaction of all the consultees detailed above. This would further ensure that any development to take place on the site would not sterilise the heritage asset and its presence / significance would be restored to be enjoyed alongside the strategic footway network according with the provisions of policy CS19 of the Core Strategy and the wider NPPF.

5.6 **Ecology / Biodiversity / Trees**

5.6.1 The application submission is accompanied by an Extended Phase I Habitat Survey and Protected Fauna Survey (which was updated in June 2016, Bat Intersect Surveys and a Great Crested Newts DNA Examination (also submitted in June 2016). The initial review of these documents and their subsequent revisions has been reviewed by **Derbyshire Wildlife Trust (DWT)** under their service level agreement. Where revisions and additional information were

submitted these were in response to comments from DWT which have been received throughout the application process.

5.6.2 The latest comments from DWT offered the following comments:

'We have checked the site against the Trust's data sets (see Endnote) and are aware of 2 great crested newt (GCN) species records within 500 of the application site: SK444756 (1996), SK445747 (1998), bat roost 90m south, records of Schedule 1 birds and grass snakes 370m west. In addition the site is adjacent to Norbriggs Flash LNR.

We have considered the relevant documents submitted as part of the planning application with particular reference to the following reports:

- *Extended Phase 1 Habitat Survey and Protected Species Survey (prepared by Whitcher Wildlife Ref 150613/Rev 1, 13th October 2015)*
- *Extended Phase 1 Habitat Survey and Protected Species Survey (prepared by Whitcher Wildlife Ref 150613/Rev 2, 24th June 2016)*
- *Bat Transect Surveys (Ref 150613/BT, 2nd September 2015)*
- *Tree Survey prepared by Anderson Tree Care (dated Jan-June, 2015)*
- *Design and Access Statement*
- *Feasibility Layout*

Comments on ecological assessment

An extended phase 1 habitat survey of the site was carried out by Whitcher Wildlife on 9th June 2015. The initial appraisal identified the broad habitats types present on the site and the appraisal was informed by an appropriate desk study involving data consultation with local nature conservation organisations for existing biological records, which is welcomed.

The site was identified to comprise an overgrown disused nursery with hedgerows to the south and west, scattered trees, tall ruderal vegetation, dense and scattered scrub and bare ground. The Norbriggs Flash Local Wildlife Site is situated immediately to the west of the site and provides records of Schedule 1 birds and grass snake.

Subsequently two nocturnal surveys for bats were undertaken; eDNA surveys on pond 6 and 7 and invertebrate surveys were undertaken throughout 2015.

The ecological assessment has identified that the hedgerows and trees provides the main habitats of interest within the site. We would advise the Council that this is likely to be an accurate assessment.

Habitats

We would advise that the hedgerows with mature trees that form the field boundaries provide the most ecologically valuable habitats on the site. The hedgerow habitats meet the definition of UK BAP priority and, as such, we would expect the retention of the hedgerows wherever possible, with any removal compensated for by replacement planting to ensure there is no net loss of priority habitat as a result of the proposed development.

The Feasibility Layout illustrates hedgerow removal along the western/northern boundary of the site, it is unclear if the hedgerow is part of the LNR or the site. The ecology report phase 1 plan would appear the hedgerow is within the site. Clarification on the ownership of the hedgerow and its longevity within the scheme is require prior to determination of this application. It is unclear from the proposed plans if additional hedgerow planting will be provided on a like for like basis.

We accept that some removal of hedgerow sections will be required to facilitate the formation of access road. However, we would advise that sufficient compensation should be provided by new native hedgerow plating to ensure there is no net loss of hedgerow as a result of the proposed development. Figures should be provided detailing the extent of hedgerow and tree removal in comparison to the extent of proposed (native) hedgerow and tree planting. We anticipate that the most significant hedgerow removal will be along the southern boundary (clarification required on the western/northern boundary) in order to form access road.

*In order to secure the long-term future and management of the hedgerows and scattered trees, we advise that, wherever possible, they should **not** be incorporated within the curtilage of residential properties but should be located alongside paths, roads or areas of greenspace. Any new landscape planting, including the infilling of*

existing hedgerows and tree planting, should use native species appropriate to the corresponding landscape character area to be of maximum benefit for wildlife.

All retained habitats should be protected from damage by the erection of adequate temporary protective fencing for the duration of the works in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to the commencement of any works on the site as a condition of any consent.

The proposed layout plan has the potential to result in a direct loss of biodiversity through loss of hedgerow habitats potentially cause a net loss to biodiversity without appropriate assessment, mitigation and enhancements.

Local Nature Reserve

The boundary to the LNR should be securely fenced with high visibility temporary fencing during the whole period of construction including any vegetation clearance and enabling works. This is in order to ensure that no spoil or stored materials accidentally spill into the LNR.

Due to the proximity of the LNR, landscaping adjacent to the area should use of locally native species in planting or where appropriate horticultural varieties of plants and shrubs which support nectar sources and/or fruit.

Although the LNR will not be affected by the proposed works, it is unclear how the development and hedgerows will be managed in the future as it is unclear if the hedgerow forms the boundary of the sites. It is unknown how the site will be managed if consent is given, therefore a Habitat Management Plan to be submitted to and approved in writing by the local planning authority prior to the development as a condition of any consent.

Reptiles and Great Crested Newts

Records of grass snake are present in the wider area with connecting habitat to the site. However, the site is overgrown and lacks open areas for reptiles, there is a very low likelihood of them being present on site.

*eDNA surveys have been undertaken at an appropriate time of year, which conclude negative result for pond 6 and positive result for great crested newts at pond 7. Pond 7 is located 480m from the site boundary. Great Crested Newts move between terrestrial foraging areas, breeding ponds and hibernation sites at different times of the year. Although most newts remain within 80m of their breeding ponds (Jehle, 2000), some may move up to 1km from the ponds. Therefore, due to the location of the LNR and close proximity of records for reptiles and GCN being present in Pond 7, it is highly recommended a strict Precautionary Method of Works (PMW) will be required. This will detail times at which the works can be done, formalise working areas and detail where supervision of the works is required in areas of higher risk. If the PMW cannot be followed, and/or GCN are found on site works must cease and a re-evaluation made which may then require an EPS licence. **A condition to this effect should be applied to any approval if granted.***

Birds

To ensure that breeding birds are protected from harm we recommend that a condition to secure the following is attached to any consent:

“No removal of hedgerows, trees, shrubs, brambles or ground clearance work shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the area for active birds’ nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.”

Bats

The extended phase 1 report identified the need for further bat surveys to be carried out; transect surveys were undertaken on the 30th July 2015 and 1st September 2015. Low levels of bat activity were noted on the western and northern boundary of the site.

As discussed previously, clarification on the hedgerow on the western/northern boundary is required. The ecology report details the majority of bat activity was surveyed in these areas, therefore,

the retention of the trees and hedgerows to facilitate the movement of fauna is prudent.

All external lighting should be directional and positioned away from the trees and hedgerow; this will ensure any foraging activity from fauna are not impacted. Details of the external lighting are required to ensure the development does not impact on the fauna utilising the site.

We would advise the LA to attach a condition requiring that lighting on the site is sympathetic to the needs of bats and other nocturnal wildlife especially in relation to the hedgerow found on the site.

Landscape Strategy

Following the NPPF (2012) enhancements are required as part of any development, therefore we recommended measures to enhance the area, such as native hedgerows and trees with native shrub planting (such as fruit bearing trees and holly) and bats and birds boxes should be considered to provide additional habitats for the species.

Conclusions and Recommendations

At present we do not consider that the application is accompanied by sufficient information to fully understand the level of impact on biodiversity and how these impacts will be avoided, minimised, mitigated and if necessary compensated. Therefore:

- We would advise the Council to clarify how the applicant intends to compensate for the loss of UKBAP habitats (hedgerows) and*
- Clarification on the ownership of the hedgerow and its longevity within the scheme*

Assuming that the outstanding issues raised above are addressed to the satisfaction of the Local Authority we would recommend the following conditions or measures are considered.

In order to secure the provision of the green corridors, and ecological enhancements and protection as shown in the Feasibility Layout which should provide mitigation for the impacts upon some breeding birds, GCN/reptiles, bats and habitats.

We would advise the LA attach a condition to the effect that no development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental

management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of “biodiversity protection zones”.*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

This would address issues relating to protected species and wildlife legislation as well as the wider biodiversity sensitivities of the site.

Landscape and Ecological Mitigation Plan

*We would advise the LA attach a **condition** (once clarification on the above) to the effect that a Landscape and Ecological Mitigation and Management Plan for all retained habitats within the development site shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The plan should incorporate the details provided in the ecological appraisals and the content of the plan should include the following:*

- a) Description and evaluation of features to be managed / enhanced or created.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options and methods for achieving aims and objectives.*
- e) Timescales*
- f) Prescriptions for management actions.*

- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
 - h) Details of the body or organization responsible for implementation of the plan.*
 - i) Ongoing monitoring and remedial measures.*
- The plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured as by the developer with the management body(ies) responsible for its delivery (this would need to reflect and be informed by whatever is agreed within a S106 agreement).*

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.'

5.6.3 Having regard to the comments received from DWT above it is considered, given the outline nature of the application proposals, that the applicant is not in position currently to respond to the outstanding comments / concerns that DWT raise about the hedgerows on site. Given the indicative nature of the site layout plan submitted and the need for the applicant to also address a number of other issues which have been highlighted by additional consultees the proposed site layout is likely to change significantly if outline planning permission is granted. The application submitted seeks permission in outline for up to 20 dwellings however a scheme which seeks to address site constraints which have been highlighted might result in a lesser density and therefore it would be unreasonable to require the hedgerow issues to be addressed at this stage when they could form part of an appropriate planning condition or reserved matters submission concerning landscaping.

5.6.4 In collaboration with the comments and recommendations of DWT with regard to ecology and habitat enhancement there is no doubt the hedgerows within and surrounding the application site make a positive contribution to this environment and they should be protected and enhanced wherever possible. By imposing a condition which requires a full hedgerow survey to accompany the landscaping reserved matter submission it is considered that the issues DWT have highlighted can be addressed in accordance

with the provisions of policies CS9 and CS18 of the Core Strategy. Furthermore the requirement to submit Landscape and Ecological Management Plan will offer greater enhancements which overall are considered to be acceptable.

5.6.5 The application submission has also been reviewed by the Council's **Tree Officer** albeit that the site is not covered by any Tree Preservation Orders. The following comments were made:

'The Outline Planning Application reference CHE/16/00114/OUT is for 20 dwellings with approved access off Worksop Road. There is no tree preservation order on the site however there are scattered trees within the site and hedgerows to the boundaries. The overgrown hedgerows along the southern and western boundaries provide a valuable screen and habitat for wildlife. The scattered trees within the site are not significant individually however they do provide valuable tree cover in this area and some of the more mature trees should be incorporated into the design where possible.'

The proposed access off Worksop Road will result in some of the southern Hawthorn hedgerow and a single Ash tree being removed. The hedgerow mainly consists of overgrown Hawthorn, individual Ash and Maple trees and conifers in the eastern section near to the crossroad junction. Just to the north of the hedgerow to the frontage of the site is a mass of scattered Hawthorn, Sycamore and Ash trees which had gradually colonised the area over the years.

There is no objection to the proposed access as long as in mitigation for the trees lost in this location improvements are carried out to the remainder of this hedgerow by removing the conifer species, the retention of individual trees within and new tree planting to the frontage which must be visible from the streetscene. In addition new hedgerow planting should be proposed within the site or on the boundaries.

Any development on the site will obviously mean the removal of the scattered trees within the site which mainly consist of Hawthorn trees, Ash and Elder which gradually gets denser as you move further to the south of the site.

A tree survey has been submitted by the applicant by Anderson Tree Care dated January/July 2015 which supports my observations that there are only two areas on the site which are of particular value. These are the two hedgerows along the southern and western boundaries and where possible retaining existing trees to add maturity to the site. This may however be problematic in trying to protect and retain while construction is in progress and a good landscaping scheme in mitigation may be a better option.

I therefore have no objections to the outline application with proposed access as long as:

- Improvements to the existing and retained two hedgerows on the southern and western boundaries are included in a landscaping scheme and include the removal of the conifer trees to the southern hedgerow.*
- New tree planting is included in a landscaping scheme which should include native species both on the site and within the hedgerow to the frontage off Worksop Road.*
- A detailed drainage and other utility services plan is submitted showing any excavations. These should not go through the retained hedgerows and provisions should be made to include these in the proposed access road off Worksop Road.*
- A drawing should be submitted which shows which trees are to be retained and which are to be removed. This should include the retention of the hedgerows on the southern and western boundaries and individual trees within the site.*
- Details of where any machinery, materials, site cabins and any other construction traffic will be located while the site is cleared and during the construction phase. These should be away from any retained trees and hedgerows unless providing a physical barrier to protect them.'*

5.6.6 Having regard to the comments received from the Tree Officer above it is considered that these observations can be incorporated into conditions for soft landscaping and habitat enhancement measures as already recommended as a result of the DWT comments above. Further conditions concerning protection measures and drainage / utility service plans can also be conditioned to ensure these avoid root protection areas of any established / retained soft landscaping.

5.7 **Drainage / Flood Risk**

- 5.7.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from fluvial flooding; however the site does lie adjacent to a designated flood storage area which is separated by an embankment.
- 5.7.2 The Councils **Design Services (DS)** team and **Yorkshire Water Services (YWS)** have both commented on the application raising no objections in principle to the development proposals however details of the proposed site drainage strategy and a flood risk assessment will need to be submitted for approval in accordance with the Council 'Minimum Standards for Drainage' to inform any reserved matter submission detailing layout, levels etc. Comments specifically from YWS note the presence of public sewers which cross the application site and need to be protected from development with the form of 3m easements either side of the sewer lines.
- 5.7.3 Having regard to the fact the application is submitted in outline it is considered that the measures required by both the DS team and YWS could be imported into a revised site layout plan which appropriately addressed any potential site constraints such as sewers etc. The developer will be required to demonstrate that sustainable measures of handling surface water drainage are not feasible prior to the scheme being accepted for connection to the mains system. Appropriate conditions can be imposed to this effect, if permission is granted.
- 5.7.4 The application submission has also been reviewed by the **Lead Local Flood Authority (LLFA)** who have also confirmed that they would have no objections in principle to the development; however they would seek appropriate planning conditions to secure an appropriate drainage strategy (informed by relevant reports and calculations) which meets current guidance. As per the above recommendations appropriate planning condition could be imposed to this effect in addition, if permission is granted.

5.8 Land Condition / Contamination / Noise

- 5.8.1 The site the subject of the application is currently a combination of previously developed land / open land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.
- 5.8.2 The Council's **Environmental Health Officer (EHO)** has reviewed the application proposals raising no objections however given the proximity of the site to other residential properties they have commented that it will be necessary to control construction hours of working in the interest of the neighbouring residents amenity.
- 5.8.3 The **Coal Authority (CA)** has reviewed the application proposals and offered the following comments:

'The CA concurs with the recommendations of the Phase 1 Geotechnical and Geo-Environmental Site Investigation Report; 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 CA 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 the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are 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;*
- * The submission of a scheme of remedial works for approval; and*

** Implementation of those remedial works.*

The CA considers that the content and conclusions of the Phase 1 Geotechnical and Geo-Environmental Site Investigation Report are sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.'

5.8.4 Having regard to the comments detailed above it is considered that all of the issues raised by the EHO and CA can be subject to appropriate planning conditions (under policy CS8 of the Core Strategy) if permission is granted.

5.9 **S106 Contributions / Community Infrastructure Levy (CIL)**

S106 Contributions

5.9.1 Having regard to the nature of the application proposals, if the principle of development is accepted, several contribution requirements would be triggered given the scale and nature of the proposals. Policy CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.

5.10.2 Internal consultation has therefore taken place with the Councils own **Economic Development, Leisure Services** and **Housing** teams, as well as externally with **Derbyshire County Councils Strategic Planning** team on the development proposals to ascertain what specific contributions should be sought.

5.9.3 The responses have been collaborated to conclude a requirement to secure S106 Contributions / Legal Agreements in respect of negotiations for up to a 30% Affordable Housing contribution (Policy CS11); negotiations up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); and appointment of an external management company to manage and maintain the on site green open space and SuDS infrastructure (Policies CS7 and CS9). Matters in respect of education and green infrastructure are now dealt with by CIL contributions (see section 5.9.5 below).

- 5.9.4 In respect of the remaining comments arising from the DCC Strategic Infrastructure team to the Council it will be necessary to look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections (Policy CS13).

CIL Contributions

- 5.9.5 Having regard to the nature of the application proposals the development comprises the creation of up to 20 no. new dwellings and the development is therefore CIL Liable. The site the subject of the application lies within the low CIL zone and therefore the full CIL Liability would be determined at the reserved matters stage on the basis of a cumulative charge of £20 per sqm of gross internal floor area created. The following advice note will be appended to any subsequent decision notice drawing this to the applicants attention:

'You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.'

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 18/03/2016; by advertisement placed in the local press on 17/03/2016; and by neighbour notification letters sent on 08/03/2016. As a result of the application publicity (which included notification of the development proposals being a departure from the Local Plan if approved) nine letters of representation from

neighbours and a representation from Staveley Town Council have been received as follows:

Staveley Town Council

Support the comments of the Chesterfield Canal Trust and would like further information on the proposed access onto Worksop Road.

See section 5.5 and 5.4 above.

12 Rose Crescent, Mastin Moor

- Concerns that a housing development would increase traffic on the A169. Traffic congestion is already an issue on Worksop Road.
- Many children from Mastin Moor walk to Netherthorpe School and traffic leaving the development could pose a danger

See section 5.4 above.

Norbriggs House, 18 Worksop Road, Mastin Moor

- Look favourably on the redevelopment of the land, are concerned that some of the proposed development will be built over the route of the Norbriggs Cutting of the Chesterfield Canal.
- Concern that the well used footpath which follows the route of the cutting might be encroached upon.
- We are concerned that adequate thought has been given to the ease and safety of vehicular egress from this proposed housing development, particularly when turning right towards Staveley or left when wishing to enter the right hand lane to enable a right hand turn into Norbriggs Road.

See section 5.3, 5.4 and 5.5 above.

29 Carpenter Avenue, Mastin Moor

- The consequences of the houses being built would be losing all nature and wildlife we currently have and destroying the peaceful land we have now.
- Dog would not get the exercise they seek for all the paths will be block by huge houses. Rambling clubs will not get access to the paths they need.

See section 5.3, 5.5 and 5.6 above.

29 Carpenter Avenue, Mastin Moor

- On the A619 there is already two junctions, three pelican crossings as well as two bus stops. Another junction would be an even bigger danger with schoolchildren having to take themselves across with no assistance
- Concerned for the wildlife. We have a nature reserve on the back field that attracts a number of wild birds including woodpeckers, badgers and foxes.

See section 5.4 and 5.6 above.

49 Carpenter Avenue, Mastin Moor

- Keep our children safe and leave our wildlife along Cuckoo Way.
- This plan ignores that fact that this strip is part of Cuckoo Way access/green corridor/cycle route
- Concerned about the loss of animals, birds, mammals, badgers and hedgehogs.
- Concerned about putting another junction into an already very busy road and road safety for children with no crossing guards.
- Loss of parking on our streets due to visitors to the new houses
- Concerned about loss of privacy

See section 5.3, 5.4, 5.5 and 5.6 above.

41 Carpenter Avenue, Mastin Moor

- Scale drawing is drawn to make the potential area look as appealing and spacious as possible with planting to 'green the area'. There is no room from 20 dwellings with gardens, a road and a car park. No room for visitors to park. The road on the plan is on top of the path and canal cutting and the hedge is on the wrong side of the footpath. The amount of space leaves approximately 257sq meters per dwelling plot which not much bigger than a garage.
- Not a brownfield site and no vehicular access.
- They will not be social housing for residents of the area or their children, they will be 'affordable' which means they will be up for sale.

- The plan ignores the fact that this strip is part of the cuckoo way route access/green corridor/cycle route – all part of the nature reserve plan.
- Habitat loss of the animals and birds is not addressed it will in fact be destroyed. The mammals except the compulsory bat survey are not mentioned.
- Flooding will also be a concern , the cutting itself currently acts as a huge sponge preventing water flooding onto the playing field
- Massive concern about the main road, access and moving the bus stop. Road safety for children and potential for an accident.
- Do not want Norbriggs Cutting to be built upon and remain a green corridor, welcoming people into the nature reserve.

See section 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.9 above.

Unknown address

- Concerned about the location of the proposed access road on Worksop Road which is incredibly busy.
- Concerned about the relocated of the bus stop and road safety for school children with no crossing guards

See section 5.4 above.

33 Carpenter Avenue

- Main concern is the extra traffic, the traffic is horrendous without additional roads to cross without supervision.
- 75 houses have already been planned for Woodthorpe and also potentially another 650, therefore I feel this is a massive risk for a lot of children for the sake of a few houses.

See section 5.4 above.

23 Carpenter Avenue

- Incorrect boundary line to the rear of 23 Carpenter Avenue is incorrect, it should be a continuous line from the boundary of 19 to 25.
- Previous applications requiring access to Worksop Road from this land have been deemed hazardous due to the proximity of two bus stops, a narrow stretch of road and the local primary school.

- This land supports a large population of local wildlife, including hedgehogs, a large amount of bird life and I believe there is also the possibility of it being a hunting area for at least one species of owl.
- Object to losing tree cover would increase noise pollution from Worksop Road.

See section 5.4 and 5.6 above.

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 objectors, 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 proposal the subject of the application is deemed to be contrary to the provisions of policy EVR2 of the Local Plan in so far as the application site is situated on land allocated as open countryside / other open land. Approval of the application would be a departure. The Council is currently in a position where it cannot demonstrate a five year housing land supply and therefore para. 49 of the National Planning Policy Framework is triggered rendering policy EVR2 (which would ordinarily prevent housing development on unallocated greenfield sites) out of date.

9.2 Given the position above the Council has considered the proposals the subject of the application against all remaining up to date development plan policies, including policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy. In addition consideration has been given to the wider National Planning Policy Framework (NPPF) and the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places'.

- 9.3 It is considered that the proposed development is able to demonstrate its compliance with policies CS1, CS2, CS3 and CS4 of the Core Strategy in so far as its ability to provide connection (and where necessary improvement) to social, economic and environmental infrastructure such that the development meets the definitions of sustainable development. The application submission is supported by the preparation of assessment and reports which illustrates the proposed developments ability to comply with the provisions of policies CS6, CS7, CS8, CS9, CS11, CS13, CS18, CS19 and CS20 of the Core Strategy and where necessary it is considered that any outstanding issues can be mitigated and addressed in any subsequent reserved matters submission or any appropriate planning conditions being imposed.

10.0 **ADDITIONAL RECOMMENDATION**

- 10.1 That a S106 agreement be negotiated and signed concurrent with the planning permission and dealing with:
- Negotiations for up to a 30% Affordable Housing;
 - Negotiations up to 1% of the overall development cost for a Percent For Art scheme; and
 - Appointment of an external management company to manage and maintain the on site green open space and SuDS infrastructure.

- 10.2 That a CIL Liability notice issued as per section 5.9 above.

11.0 **RECOMMENDATION**

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

Time Limit etc

01. Approval of the details of the layout, scale and external appearance of the building(s), the means of access and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).

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

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

03. 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.

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Site Investigations

04. 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 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 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 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.

Drainage

05. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - In the interest of satisfactory and sustainable drainage.

06. No development shall take place until a flood risk assessment and details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, 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.

Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal.

07. No building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the sewers, which crosses the site.

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

08. No new tree planting shall be permitted over or within 5.0 (five) metres either side of the centre line of the sewers, which cross the site.

Reason – In order to protect the structural integrity of the pipe from tree root infestation.

09. 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, 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 LPA in advance of full planning consent being granted.

10. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.”

Reason - To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- 1. into the ground (infiltration);*
- 2. to a surface water body;*
- 3. to a surface water sewer, highway drain, or another drainage system;*
- 4. to a combined sewer.*

11. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason - To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

Highways

12. Before any other operations are commenced, detailed designs indicating the proposed junction with Worksop Road (A619) and bus stop lay-by layouts, including all relocation and/ or removal of existing street furniture/ apparatus, shall be submitted to the Local Planning Authority for written approval.

Reason – In the interests of highway safety.

13. Before any other operations are commenced, (excluding Condition 12 above), the new bus stop lay-by shall be formed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

Reason – In the interests of highway safety.

14. Before any other operations are commenced, (excluding Conditions 12 and 13 above) the new junction with Worksop Road (A619) shall be formed in accordance with the approved detailed designs 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 90 metres in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object above ground level relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

15. Before any other operations are commenced, (excluding Conditions 12, 13 and 14 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.

Reason – In the interests of highway safety.

16. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned

before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason – In the interests of highway safety.

17. 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 6C's Design Guide.

Reason – In the interests of highway safety.

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

Reason – In the interests of highway safety.

19. The carriageway of the proposed estate road shall be constructed in accordance with Condition 18 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. The carriageway 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 carriageway, 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.

Reason – In the interests of highway safety.

20. The sole means of vehicular access to the application site shall be from Worksop Road (A619) only. There shall be no

means of access to the Public Right of Way adjacent to the western boundary of the site and to this end, a permanent physical barrier shall be erected across the entire site frontage all as agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

Reason – In the interests of highway safety.

21. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the off-street parking of residents/ visitors 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.

Reason – In the interests of highway safety.

22. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

23. The proposed access driveways to the proposed estate street shall be no steeper than 1 in 14 for the first 6.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason – In the interests of highway safety.

24. 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.

Reason – In the interests of highway safety.

25. 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 existing and proposed highway. The approved scheme shall be undertaken and completed prior to the first use of the accesses and retained as such thereafter.

Reason – In the interests of highway safety.

26. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason – In the interests of highway safety.

27. 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.

Reason – In the interests of highway safety.

Ecology

28. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.*
 - b) Identification of “biodiversity protection zones”.*
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.*
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.*
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.*
 - f) Responsible persons and lines of communication.*
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
 - h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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 National Planning Policy Framework.

29. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be protected, enhanced, created and/or managed.*

- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery for a period of no less than 10 years.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The scheme shall include a timetable for implementation relative to the completion of dwellings hereby approved.

Thereafter the approved ecological mitigation, compensation and enhancement scheme shall be implemented in full in accordance with the approved timetable and retained as such thereafter.

The approved plan will be implemented in accordance with the approved details.

Reason - To mitigate against the loss of existing biodiversity and habitats and provide biodiversity benefit, in accordance with Policy CS9 and the National Planning Policy Framework.

30. There shall be no removal of hedgerows, trees, shrubs, brambles or ground clearance take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the area for active birds' nests immediately before the work is commenced. Provided that the ecologist is satisfied that no birds will be harmed, and/or that there are appropriate measures in place

to protect nesting bird interest on site and the Local Planning Authority receive written confirmation of such (which shall subsequently need to be approved in writing), works will thereafter be permitted to take place in accordance with any protection measures recommended without restriction.

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 National Planning Policy Framework.

31. No works shall commence on site until a lighting strategy has been submitted to and agreed in writing with the Local Planning Authority. Such approved measures shall be implemented in full and maintained thereafter.

Reason – In the interests of biodiversity and to accord with policy CS9 of the Local Plan: Core Strategy 2011-2031 and the National Planning Policy Framework.

Heritage / Footpaths

32. Concurrent with the submission of the first reserved matters a scheme for improvements to the Footpath 22 where it is contiguous with the western boundary of the application site, together with a programme for carrying out of the improvements, shall be submitted. The improvements shall be carried out in accordance with any approved details and programme.

Reason – In order to promote enhancement and improved connection to the existing footway / cycle network in accordance with the provisions of policy CS1 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider NPPF.

33. Concurrent with the submission of the first reserved matters a scheme for protection, restoration and enhancement of the Norbriggs Canal Cutting where it is within the site, together with a programme for carrying out of the improvements, shall be submitted. The improvements shall be carried out in accordance with any approved details and programme.

Reason – In order to preserve and enhance the significance of the undesignated heritage asset in accordance with policy CS19 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider NPPF.

Others

34. 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.

35. 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.

Reason – In the interests of sustainable development and to ensure that the development is capable of meeting the needs of future residents and / or businesses in accordance with policy CS4 of the Core Strategy and para. 42 of the NPPF.

36. 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.

37. 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.

Trees

38. Prior to the commencement of development details of the location of site cabins, materials, construction vehicles and parking shall be submitted to the Local Planning Authority for consideration and written approval; and these should be outside the RPAs of the retained trees.

Reason – In the interest of safeguarding the retained / neighbouring trees, having regard to their root protection areas, and in the interest of the appearance of the surrounding area.

39. Prior to the commencement of development a site layout plan shall be submitted showing all necessary service runs, which should avoid all the defined Root Protections Areas for any protected or retained trees / hedgerows on site. Only those details which are subsequently agreed in writing shall be implemented on site.

Reason - In the interests of amenity and safeguarding the root environment of any protected / retained trees on site in the context of policy CS9 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.

03. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.

Highways

04. 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
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/ new estate street 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 gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. 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 Communities 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.

07. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of Economy Transport and Communities at County Hall, Matlock (tel: 01629 538578).
08. Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; 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 (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
10. The application site is adjacent to a Public Right of Way (Footpath 22 Chesterfield on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Strategic Director of Economy Transport and Communities at County Hall, Matlock (tel: 01529 580000 and ask for the Rights of Way Officer).

11. Car parking provision should be made on the basis of 1.5no., 2no. or 3no. spaces per 1 bedroom, 2/3 bedroom or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 5.5m with adequate space behind each space for manoeuvring.
12. 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.
13. The applicant is advised that to discharge Condition 16 that the Local Planning Authority requires a copy of a completed Agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.
14. The application proposals are affected by a Prescribed Building Line under the Roads Improvement Act 1925. Whilst it is an offence to undertake building works in advance of this line, it may be possible for the applicant to apply to rescind the line. The applicant is advised to write to the Strategic Director of Economy, Transport and Communities at County Hall, Matlock, DE4 3AG, at least 6 weeks before commencing works requesting that the line(s) be removed

and confirming that they will meet the Authority's administrative / legal costs if the removal is approved. For further advice, please contact the Highways Searches and Information Unit on 01629 538650.

Design

15. Attention is drawn to the Successful Places: A Guide to Sustainable Housing Layout and Design SPD (2013) <http://www.chesterfield.gov.uk/Residential-Design-SPD-849.html>
This Supplementary Planning Document (SPD) identifies good practice guidance on the design process and urban design principles that should underpin and inform the design of new residential development and any subsequent reserved matters submission.
16. Attention is drawn to the attached guidance, 'Minimum Standards for Drainage' in respect of any drainage related conditions / subsequent reserved matter submissions.

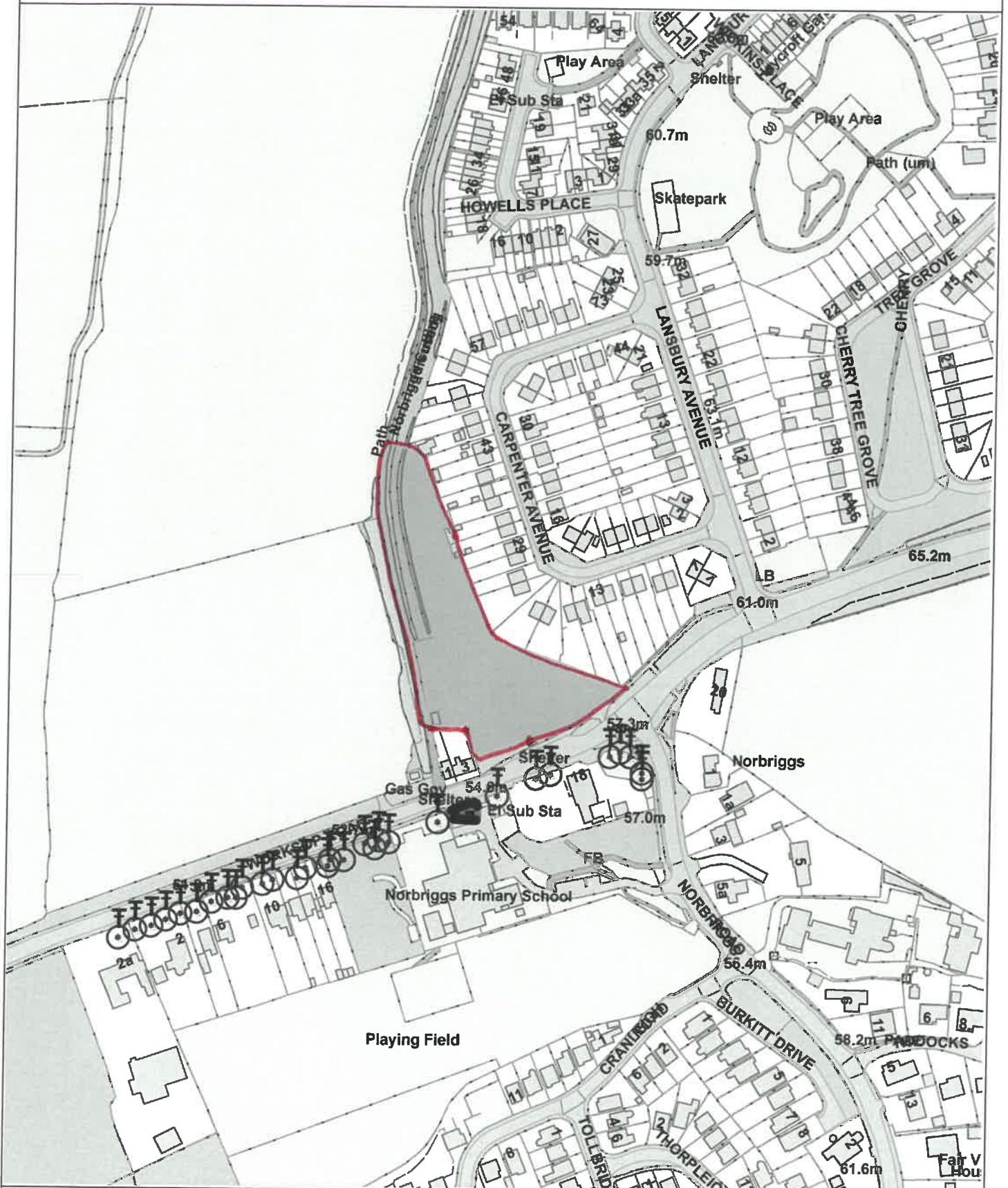
Drainage Notes

17. 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 to an ordinary watercourse require 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 LPA, 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 downstream receiving watercourse's Water Framework Directive good ecological status. Although the site is outside of the Environment Agency defined fluvial Flood Zones the County Council would encourage the applicant to consider creating a flood plan for the worst case

scenarios should flooding occur due to the sites close proximity to the watercourse.

18. To discharge the drainage conditions the applicant should ensure all of the below parameters have been satisfied:
 1. 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 reasonable practicable demonstrate that the runoff volume of the site reflects the requirements of S4.
 2. Information to indicate that the surface water can, in principle, be disposed of sustainably in compliance with Approved Document H of the Building Regulations 2000. In particular, the following information should be provided to the Local Planning Authority for review:

- Soakaway/ground investigation conducted in compliance BRE Digest 365 methodology or similar submitted to demonstrate the feasibility of infiltration alone to manage surface water on the site.
- If infiltration is found not to be feasible, an alternative option for surface water disposal should be proposed. In order of preference this should be to:
 - i. an adjacent watercourse with detailed evidence of the feasibility of this option given the existing site constraints,
 - ii. a surface water public sewer, with appropriate evidence that the relevant Water and Sewerage Company (WaSC) deems this acceptable, or
 - iii. a combined public sewer, with appropriate evidence that the relevant WaSC deems this acceptable.



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ITEM 2

DEMOLITION OF EXISTING PRESBYTERY, ALTERATIONS TO THE EXISTING CHURCH BUILDING TO CREATE A NEW ENTRANCE AND NEW ENTRANCE CANOPY, OVER CLADDING OF EXISTING WINDOWS ON THE SOUTH WEST ELEVATION AND CREATION OF A NEW HARD SURFACED CAR PARK AREA FOR APPROXIMATELY 95 CARS (REVISED PRE-DEVELOPMENT ARBORICULTURAL REPORT, AMENDED DESIGN AND ACCESS STATEMENT, DRAINAGE LAYOUT PLAN, ILLUMINATION LAYOUT PLAN AND PROPOSED LAYOUT & SURFACING PLAN/SECTION RECEIVED 23.01.2020, BAT & BIRD SURVEY PRELIMINARY ROOST ASSESSMENT AND REVISED EXTERIOR CAR PARK LIGHTING PLAN RECEIVED 30.01.2020) AT PLYMOUTH BRETHREN CHRISTIAN CHURCH, 135 LITTLEMOOR, NEWBOLD, S41 8QP FOR PLYMOUTH BRETHREN CHRISTIAN CHURCH

Local Plan: Unallocated
Ward: Moor
Plot No: 2/1644

1.0 CONSULTATIONS

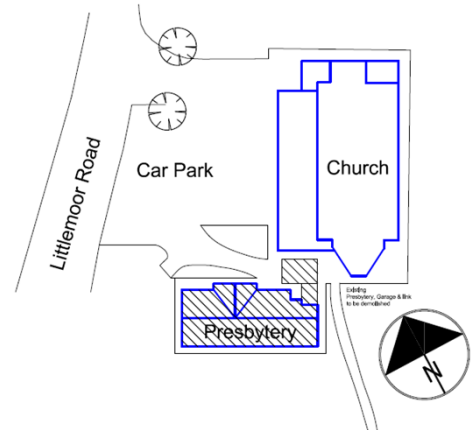
Derbyshire Wildlife Trust	Comments received – see report
Design Services Drainage	Comments received – see report
Environmental Health	Comments received – see report
Forward/Strategy Planning	Comments received – see report
Local Highways Authority	Comments received– see report
Neighbours	7 letters of objection received – see report
The Coal Authority	Comments received – see report
Tree Officer	Comments received – see report
Ward Members	No comments received
Yorkshire Water	Comments received – see report

2.0 THE SITE

- 2.1 The site subject of this application is located on the east side of Littlemoor highway and extends to the junction of Dukes Drive. The site is bound by residential dwellings and land levels within the site fall from Dukes Drive towards the northern boundary.



Aerial photograph of the site



Existing buildings and car park

- 2.2 The site is formed of a single storey detached building previously known as St Hugh's Church and detached single storey Presbytery. The main building is set back from Littlemoor highway and the remaining area is largely laid to grass.



- 2.3 The site contains trees protected by Tree Preservation Order No 4901.241 consisting of 3 individual trees T1 (Silver Birch) and T2 and T3 (Sycamores) and a group of trees G1 including 13 Birch, 6 Alder, 4 Sycamore, 3 Rowan and 1 Oak. The two Sycamore trees are located either side of the existing entrance and the Silver Birch is to the west of No 16 Dukes Drive. The group of trees (G1) is situated along the southern and western boundary of the site.
- 2.4 The site is currently served by a small car park with 16 spaces. Vehicular access to the site is gained from Littlemoor highway in the north western corner of the site. The existing driveway is flanked by two protected Sycamore trees (T2 and T3).



Existing access point



Group of protected trees

- 2.5 In 2019 application CHE/19/00073/FUL for the creation of a car parking area and alterations to the building was refused (see site history section 3.0).

3.0 **RELEVANT SITE HISTORY**

Planning Applications

- 3.1 CHE/19/00073/FUL - Hard surfacing with drainage and street lighting to provide an additional 2165 sq.m of car parking area. revised plans received 26.03.2019 with amended layout and surfacing plan, amended drainage and tree protection layout and statement regarding usage and traffic patterns, alterations proposed to the main building, including an entrance canopy, two new entrance doors and cladding to the south west elevation. revised lighting plan received 24.04.2019 and 23.05.2019, revised layout and surfacing plan 29.05.2019 and proposed drainage layout 24.05.2019 and arboricultural report revision A 28.05.2019 – **REFUSED (11.06.2019)**

- 3.2 The reason for refusal is listed below;
'In the opinion of the local planning authority the proposed car parking area to the rear of the building is not sympathetic to the surrounding local residents. The parking spaces are too close to the boundary and will result in lights shining through the hedges, air pollution issues and general noise and disturbance issues to the neighbours amenity. The pole mounted lights would also be a nuisance to the neighbouring properties. The proposal is considered to be in conflict with the requirements of policy CS2 and CS18 of the Core Strategy 2011-2031 and the guidance as set out in the 2019 National Planning Policy Framework Chapter 12.'
- 3.3 CHE/0598/0270 - Brick built bin store with flat roof to the north – **CONDITIONAL PERMISSION (10.06.1998)**
- 3.4 CHE/1197/0600 - New metal church tower and metal crosses on west windows - **CONDITIONAL PERMISSION (24.12.1997)**
- 3.5 CHE/1196/0611 - Re-glazing of church/church hall to the south east elevation with new curtain walling - **CONDITIONAL PERMISSION (23.12.1996)**

Tree Preservation Order

- 3.6 4901.241 - Chesterfield Borough Council (St Hugh's Church Littlemoor/Dukes Drive) Tree Preservation Order No 241 2004

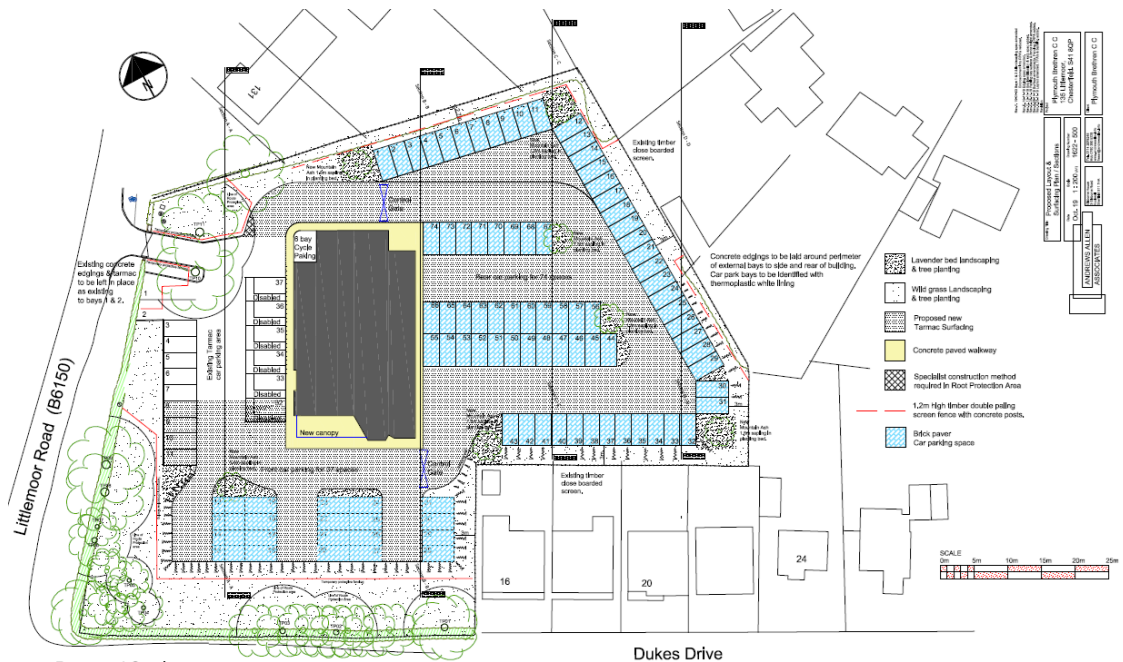
Application to Fell or Prune Protected Trees

- 3.7 CHE/18/00693/TPO - crown lift and crown clean T1 Silver Birch, T2 & T3 Sycamore and trees within G1. Also the felling of two dead Rowans and one leaning Silver Birch within G1 of TPO 241 at St Hughs Church 135 Littlemoor – **CONDITIONAL PERMISSION (13.11.2018)**

4.0 THE PROPOSAL

- 4.1 The application seeks consent for the demolition of the existing presbytery to the south west of the church and the creation of car parking to the north, east and south/south west of the church as an alternative to the scheme refused in June last year (see site layout plan).

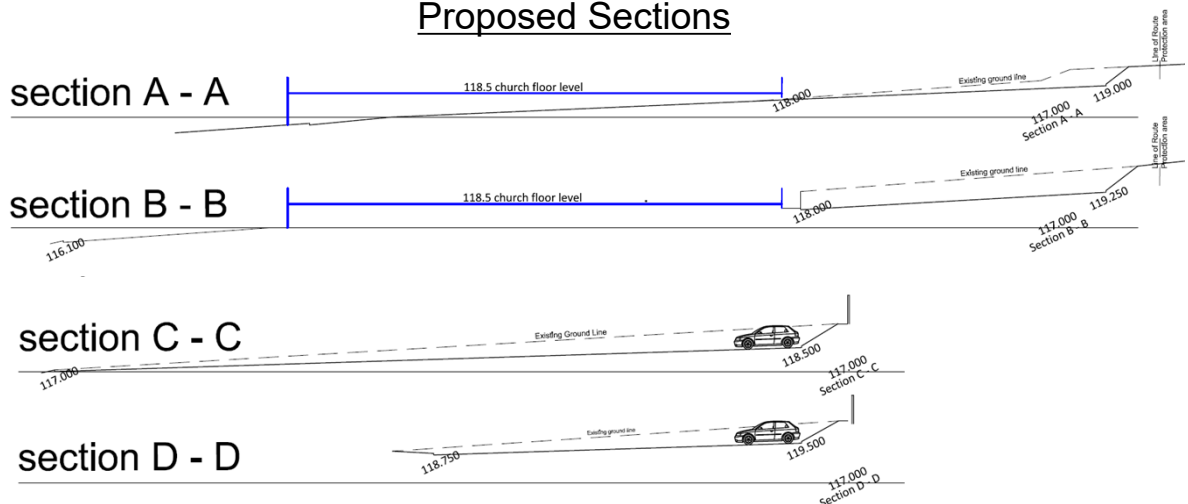
Proposed Site Layout Plan



4.2

The proposal will create 37 spaces to the south/south west and west of the church building including 6 accessible spaces and to the rear of the building 74 additional spaces are proposed (111 spaces in total). The proposal incorporates cycle parking for 6 bicycles. The existing main vehicular access point will be retained. The previous scheme included an emergency access point and driveway leading onto Dukes Drive, this has been removed. The proposed layout drawing provides sections across the site and it is indicated that the car park will be 'cut in' to the site with a retaining wall. Vehicles will therefore be set at a lower level than the rear gardens of the existing properties on Dukes Drive (see section drawings below)

Proposed Sections



4.3 Traffic control gates are proposed to direct the flow of vehicles and prevent parking at the rear of the building except at peak times. Supporting documents state that the rear car park will not be used outside of 08:00 – 21:00 Monday to Saturday and 11:00 – 19:00 on a Sunday, it is expected that car park will only be at full capacity 2 or 3 times per week with little use of the rear car park outside of this time.

4.4 The applicant has provided a statement regarding usage and traffic patterns (see table and summary below);

- *'The Lord's Supper (Holy Communion) and Prayer Meeting are a small gathering with approximately 15 cars. These would be parked in the carpark to the front of the site and no lighting would be used in the rear carpark. Both these occasions have been held on the site by the congregation since the beginning of May 2019.*
- *The Gospel Preaching's, Sermon Meetings and Readings would normally bring approximately 65 cars and utilise the front carpark plus a small part of the rear carpark if required.*
- *Use of the carpark to full capacity is anticipated at a maximum of 2 to 3 times per week, this being; either Wednesday or Thursday typically between 17:15- 20:45, Saturday typically between 10:00-13:00 and Sunday typically between 10:00-18:30.*
- *A typical duration of use would be approx. 2 hours including the arrival and departure periods.*
- *Neither the Sunday Reading or the Saturday Bible Reading would take place every week, more like every other week on average.'*

Day	Meeting	Time of Day
Sunday	Lord's Supper (Holy Communion) Reading Gospel Preachings	Early morning Mid-morning Balance of day
Monday	Prayer Meeting	Late afternoon or evening
Tuesday	Sermon Meeting	Late afternoon or evening
Wednesday	Bible Reading	Late afternoon or evening
Thursday	Bible Reading	Late afternoon or evening
Friday	Bible Reading	Late afternoon or evening
Saturday	Bible Reading	Morning

- 4.5 The statement continues to states that the site will gated and locked when not in use and the grounds will be covered by CCTV for security. The car park will be used solely by the Church and will not be let out to other users. The applicant has suggested that the church has a congregation of 500 to 600 members and this is the rationale for the number of parking spaces required.
- 4.6 The proposal includes a 2.7m to 3m landscape buffer around the perimeter of the site and proposes the introduction of 7 Mountain Ash trees in planting beds. 1.2m high timber fencing is indicated around existing hedging to the north, north east and east of the site to provide a solid screen and prevent glare/light pollution spilling into neighbouring gardens.
- 4.7 The submitted plans propose tarmac surfacing and brick paving with thermoplastic white lining. A concrete paved walkway wraps around the church building and provides level pedestrian access to the building.
- 4.8 The proposal also includes minor alterations to the existing building, introducing light grey ship cladding to the rear (eastern) elevation, installing new entrance doors and the erection of a covered canopy adjoining the southern corner of the church building.
- 4.9 To accommodate the current scheme the existing presbytery will be demolished (see photos below).



- 4.10 The application submission is supported by the following plans and documents:

BACKGROUND/SUPPORTING DOCUMENTS

- Application form (received 22.11.2019)

- Design and access statement produced by Andrews Allen Associates 580-1622 Revision B (dated 11.01.2020, received 22.11.2020)
- Planning application fact sheet, sheet number 600_1622
- Bird & Bat Survey – Preliminary Roost Assessment produced by Midland Ecology (dated 16.01.2020, received 23.01.2020)
- Pre-Development Arboricultural Report 590-1622 revision A (dated 19.01.2020, received 23.01.2020)

SITE PLANS

- Site location plan, drawing number 1622-540 (dated Nov 2019, received 22.11.2019)
- Existing elevations drawing number 1606-530 (dated Nov 19, received 22.11.2019)
- Existing plan (church layout), drawing number 1606 -550 revision A (dated 14.11.2019, received 22.11.2019)
- Proposed plan (church layout), drawing number 560 -1622 (dated 15.11.2019, received 22.11.2019)
- Proposed elevations drawing number 1622 -570 revision A (dated 14.11.2019, received 22.11.2019)
- ~~Car park layout, drawing number 610 -1622 (dated 15.11.2019, received – details superseded~~
- Proposed layout & surfacing plan/sections, drawing number 1622-500 revision F (dated 19.01.2020, received 23.01.2020)

DRAINAGE

- Proposed drainage layout plan, drawing number 1622 – 520 Revision A (dated 13.01.2020, received 23.01.2020)

LIGHTING

- Exterior lighting car park lighting, drawing number ASD-DN-13936-DWG-SHEET 1 of 1 Revision 05 (dated 27.01.2020 received 30.01.2020)
- Proposed illumination layout plan, drawing number 1622 – 510 revision B (dated 13.01.2019, received 23.01.2020)

5.0 CONSIDERATIONS

5.1 Planning Policy Background

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, ‘applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise’. The relevant Development Plan for the area comprises of the saved policies of

the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

5.2 Chesterfield Local Plan: Core Strategy 2011 – 2031 ('Core Strategy')

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS7 Managing the Water Cycle
- CS8 Environmental Quality
- CS9 Green Infrastructure and Biodiversity
- CS17 Social Infrastructure
- CS18 Design
- CS20 Influencing the Demand for Travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (February 2019)

5.4 Key Issues

- Principle of development (section 5.5)
- Design and appearance of the proposal (section 5.6)
- Impact on neighbouring residential amenity (section 5.7)
- Highways safety and parking provision (5.8)
- Flood risk and drainage (5.9)
- Impact on protected trees and biodiversity (5.10)
- Coal Mining Legacy (5.11)

5.5 Principle of Development

Relevant Policies

5.5.1 The application site is situated within the built settlement of Newbold and is an existing place of worship (Policy CS17). The area is largely residential in character and the site is located approximately 130m from Newbold Local Centre and approximately 300m from Littlemoor Local Centre.

5.5.2 Policies CS1, CS2, CS7, CS9, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply.

- 5.5.3 The Strategy Planning Team were consulted on the proposal and they provided comments on the principle of development with respect to planning policy (see paragraphs 5.5.4 to 5.5.10 below)
- 5.5.4 ***‘Summary comments*** - *The application site is not allocated for a specific use or policy designation in the adopted or emerging Local Plans. The principle of the use of the existing church building is well established. The principle Local Plan policies to consider are policy CS17 (as it relates to the loss of the presbytery) and CS20 (the additional car parking). There is no objection in principle to the alterations to the existing church provided the case officer is satisfied that they accord with the criteria set out in policy CS18 (design).*
- 5.5.5 ***Loss of the presbytery*** - *Policy CS17 addresses applications that result in the loss of community infrastructure. The application description refers to demolition of the existing presbytery. As this was previously residential provision associated with the church, and the main church building will remain in use for religious services, requirement (a) of policy CS17 is satisfied, in that an ‘equivalent’ facility will be available in the locality – on the basis that the social infrastructure element of the site remains unchanged. However, I do note that the application drawings do not appear to show the location of the building to be demolished, and this information should be set out before a decision is made.*
- 5.5.6 ***Car Parking*** - *CS20 (Influencing the demand for travel) seeks to maximise walking, cycling and the use of public transport. However, the Core Strategy does not have any maximum parking standards. The site is well located for walking from surrounding areas, and well served by a regular bus route. It is also recognised that the congregation of the church is likely to include a significantly wider catchment where walking and the ability to use public transport is limited. On this basis there is a reasonable expectation that some additional parking may be required. There is therefore no objection in principle to additional parking, provided Derbyshire County Council, as Highways Authority, are satisfied that it would not have a detrimental impact on the safety and functioning of the highway network.*
- 5.5.7 *Concerns were raised in connection with the previous application for parking on the site (CHE/19/00073/FUL) regarding the potential impact on the amenity of neighbouring properties. Policy CS18 requires that development take account of the relationship between*

public and private spaces and has an acceptable impact on the amenity of users and neighbours. I note that the applicant has submitted information setting out how the scheme has been revised to address these concerns. These include clarifying how and when the car park will be used, it is suggested that these be set out in a condition on any permission to ensure that they are adhered to.

5.5.8 Other Matters

I note that Derbyshire Wildlife Trust have raised questions regarding the demolition of the presbytery which will need to be addressed to satisfy policy CS9. DWT have welcomed the soft landscaping and tree planting and conditions to ensure that this is delivered as per their recommendations would satisfy the requirement in policy CS9 to achieve a net gain in biodiversity.

Policy CS20 seeks to encourage the provision of electric vehicle charging opportunities. With the application making provision for an additional 95 car parking spaces the potential to include some EV charging provision should be investigated and a scheme secured by condition.

5.5.9 Emerging Local Plan

The emerging Local Plan (2018 to 2033) is currently subject to Examination in Public. Hearings were held in October and November 2019 and the council is preparing to consult on modifications. The plan has therefore reached an advanced stage of preparation. The emerging Local Plan does not allocate the site for any specific purpose so the comments on the principle of the development remain unchanged.

Emerging Policy LP23 (which will replace adopted Local Plan policy CS20) seeks to strengthen the provision of Electric Vehicle Charging. However, this policy is the subject of outstanding objections and likely modifications and therefore relatively little weight can be placed on it – with the result that the application should continue to be determined with reference to adopted Local Plan Policy CS20.

The emerging policy LP16 seeks to continue the objective of achieving a net gain in biodiversity set out in the existing policy CS9, and therefore there is no material difference to the policy position in this respect

- 5.5.10 ***CIL*** - *The proposed use is not subject to the council's community infrastructure levy (CIL).*
- 5.5.11 The principle of the scheme to develop an existing community asset, retaining the existing use as place of worship is considered to be generally acceptable (policy CS17). Consideration of the design/appearance of the proposal and potential impact on neighbours (CS18 and CS2) will be covered in the sections 5.6 and 5.7. Highway safety, parking provisions and electric vehicle charging (CS20) will be discussed in section 5.8. Consideration of issues relating to drainage (CS7) will be discussed in section 5.9. Impacts on protected trees and biodiversity (CS9) will be covered in section 5.10 and consideration of Coal Mining legacy (CS8) will be discussed in section 5.11.
- 5.6 Design and Appearance of the Proposal**
- 5.6.1 Policy CS18 (Design) states that *'all development should identify, respond to and integrate with the character of the site and its surroundings and respect the local distinctiveness of its context'* and development should have *'an acceptable impact on the amenity of users and neighbours.'*
- 5.6.2 The application proposes the creation of additional parking spaces to serve the existing facility. The proposal involves the demolition of the existing presbytery and the loss of the existing area of grassland to the east and south of the main church building.
- 5.6.3 The proposed surfacing materials predominately consist of tarmac and contrasting porous block paving. A landscape buffer of 2.7m to 3m in width is shown around the perimeter of the site. The landscape buffer is indicated to be wild grass planting with planting beds of lavender and Mountain Ash trees. It is acknowledged that the proposal will lose the 'green' character of the existing field to be replaced with hard surfacing however it is also accepted that the field is not designated greenspace and the proposal will enable the continued use of the place of worship.
- 5.6.4 To prevent lighting spill from car headlights to the rear gardens and windows of the adjoining residential properties between existing non-solid hedgerow boundaries a 1.2m high solid timber fence is proposed. The fence height is sufficient to protect the amenity of neighbours from headlight dazzle given the fact that the land levels are generally to be cut into the ground.

- 5.6.5 The parking layout has been amended to ensure 5-6m width of space is available between bays to enable vehicles to manoeuvre in and out of designated spaces easily and move around the site.
- 5.6.4 The proposal also incorporates minor alterations to the existing building including the installation of two new entrance doors within the south elevation and a replacement entrance door within the west elevation. The application also proposes the erection of a covered canopy formed of a flat roof and measuring 3.4m in height overall, adjoining the south elevations of the host building. The application also includes light grey ship lap cladding to the east elevation.
- 5.6.5 On balance, the proposal is considered to be acceptable in design and appearance terms. The development will result in the loss of non-designated greenspace, but will enable the facility to be used as a place of worship. The proposed car parking will also prevent a significant number of cars parking on the surrounding streets and will maximise the effective use of the site. Overall, the proposal is not considered to be unduly out of character and serves the existing facility therefore the proposal is considered to accord with the provisions of policy CS18 of the Core Strategy and the wider NPPF. Further consideration of the design with respect of landscaping will be covered in section 5.10.

5.7 Impact on Neighbouring Residential Amenity

- 5.7.1 Core Strategy Policy CS2 states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*
- 5.7.2 Core Strategy Policy CS18 states that all development will be expected to *'have an acceptable impact on the amenity of users and neighbours'*
- 5.7.3 The Council's **Environmental Health Officer** was consulted on the proposal and provided the following comments;
- 5.7.4 *'Lighting*
I note that there are a number of objections regarding the proposed lighting. I would like to reiterate (with minor adjustments) my comments relating to the previous application:

The modelled lighting footprint indicates that the facades of nearby dwellings may well be adversely affected by the lighting. I further note that some of the lighting will be by LEDs on 2m and 4m poles. The lighting is by flush mounted LEDs which cause a bright white light. It is likely that they will cause glare in the rooms of surrounding dwellings (albeit to a lesser extent than the previous application which used 8m poles). I request that the lighting be fitted with shrouding to prevent glare. I further note that the lighting fitted to the façade of the building is proposed to be fitted with opalescent luminaires, to limit glare; I suggest that this be conditioned.

5.7.5 Air Quality

The revised proposal increases the number of vehicles on the site. Whilst there are objections regarding the increase in vehicles close to the boundary, in air quality terms the vehicles will be parked up, and not causing fumes for most of the time, and as such the site should have no appreciable impact on local air quality.

However, as the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017), and a change to set a revised target date of 2035 has been announced today, I ask that provision for on-site electric charging be installed as part of the build phase.

5.7.6 Construction Hours of Work

Work 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.'

5.7.7 Further comments were subsequently received from the **Environmental Health Officer;**

'There are three different types of light fitting:

- i) On the boundary, 2m poles with LED downlighters (fitted with backplates)*
- ii) Within the car park area, 4m poles with LED downlighters*
- iii) On the external façade of the church building, LED bulkhead lights – partially shrouded with opalescent screens.*

As the 2m lights have backplates and are mounted lower than much of the surrounding fencing they should have little impact, but I remain concerned regarding the other lighting units.

I note that the applicant states that the lighting will not be operated when the premises are not in use, but does not make any reference to times when the building will be used. With this in mind I ask that the following restrictions be placed on the use of the proposed lighting at the premises.

The 4m poles with LED downlighters, and the bulkhead lights are not to be used between 22:00 on one day and 08:00 on any following day (in order to reduce the possible adverse impact on neighbouring dwellings).

Please also inform the applicant that use of the 2m poles with LED downlighters may require further shrouding measures if adverse impacts are demonstrated in use.

Notwithstanding the above, the lighting shall not be used when the premises are not in use.'

- 5.7.8 The comments made by the Environmental Health Officer have been noted. The revised lighting scheme proposes 14 x 2m high lighting columns around the perimeter and 2 x 4m high lighting columns located centrally in the rear car park. 10 x wall mounted lights are also proposed to the elevations of the church building. The level of lux at the boundary has been reduced to 0.5 lux and back shield shrouding is proposed to prevent lighting spill/nuisance to the surrounding residential properties and gardens. The average level of lux across the site has been reduced to 5 lux. It is recommended that condition be attached to the decision requiring lighting to be installed with shrouds to prevent glare and the wall mounted lighting be fitted with opalescent luminaires.
- 5.7.9 The statement regarding usage sets out that lighting will only be used around meeting/services times and will be switched off at all other times. It is recommended that a condition be attached to the decision preventing lighting being left on overnight to protect the residential amenity of the adjoining neighbours.
- 5.7.10 The submission also includes the provision of solid timber boundary treatments to prevent light disturbance/pollution through non-solid hedges. It is recommended that a condition be imposed to ensure the fence is of solid construction and at an appropriate height and is erected before the use of the car park commences.

- 5.7.11 The comments made by the Environmental Health Officer with regards to air quality have been noted and the proposal is therefore not considered to harm the air quality of the surrounding residential properties. In addition the more recent scheme includes a larger landscape buffer.
- 5.7.12 To protect the amenity of the residential neighbours and in accordance with the recommendations of the Environmental Health Officer it is also recommended that a condition be attached to the decision restricting hours of construction work on site.
- 5.7.13 The applicant provided a statement regarding proposed usage and traffic patterns. The statement shows that most activity at the site will take place on a Sunday with one meeting or service taking place each day of the week. Activity at the site is therefore generally considered to be limited to specific times. It is acknowledged that there may be some noise associated with members arriving and departing from meetings/services. This level of activity is not considered to be unreasonable and will be focused around meeting times rather than continuous activity and disturbance throughout the day. This is considered to be acceptable.
- 5.7.14 Based on the observations listed above and subject to the inclusion of the recommended conditions, the proposal is considered to accord with the provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF. Further consideration of electric charging provision will be covered in the following section.

5.8 Highway Safety and Transport

- 5.8.1 Core Strategy Policy CS20 requires development proposals to provide appropriate parking provision in accordance with guidance set out in Appendix G and for development to be sustainably located with access to public transport.
- 5.8.2 The application submission has been reviewed by the **Local Highways Authority** Derbyshire County Council which stated 'comments as previous'. The comments for the previous application are therefore copied below;
- 5.8.3 *'This application is for the provision of a large number of car parking spaces only with no justification given for their provision. It is assumed you are satisfied that there is a requirement for such*

parking. For such a proposed increase, the Highway Authority would look for improvements to the access to bring it in line with current standards.'

5.8.4 *'The application form indicates no alteration to the access which is of single width which cannot be widened due to trees on either side that are the subject of a tree preservation order. The Highway Authority would have reservations over such an intensification in use of the site given that the access is to a busy classified road and the Highway Authority would not wish to see vehicles reversing to or from Littlemoor or having to wait on Littlemoor for vehicles to exit the site before being able to enter.'*

5.8.5 *'If you are satisfied that there is a justification for the provision of this level of car parking, the Highway Authority considers that a new access could be created to Littlemoor to current standards, avoiding the trees subject to a tree preservation order, that would remove highway objection to the proposal. The existing access would be required to be closed.'*

5.8.6 *'I would be obliged if you could put this proposal to the applicant and the Highway Authority will be pleased to comment on any revised proposals. In the event the application is to be decided on an as submitted basis, the Highway Authority would recommend refusal of the proposal for the following reason.*

1. The proposal, as submitted, would be likely to lead to vehicles waiting on a classified highway to enter the site and/or vehicles reversing to or from a classified road against the best interests of highway safety.'

5.8.7 The comments from the Highways Officer have been noted. Due to the nature of the activity taking place on site it is expected that vehicles will arrive and enter the site at the same time and then leave after a meeting/service at the same time, effectively creating a one way operation. On this basis the existing access is considered to be sufficient. The church has indicated that their congregation will regularly involve up to 500-600 persons all arriving within a half hour time frame and that they would all leave generally after the service has ended. It is appreciated that vehicles will generally be multiple occupied however it is also considered that the site is well located in a close proximity to public transport facilities. Layout drawings show the provision of cycle

stands for 6 bicycles. The site is also in close proximity to a bus route with a bus stop situated to the north of the existing entrance on Littlemoor highway. The revised scheme proposes the use of traffic control gates which are to be used to limit and direct the flow of vehicles around the site and also prevent parking to the rear of the church when the need does not arise.

5.8.8 The use of the building by the applicant is not within the control of the local planning authority and it is the case therefore that inadequate parking provision on the site will just result in on street parking much to the nuisance of neighbouring residents. On balance, the proposal is considered to be acceptable and accords generally with the policy CS20.

5.8.9 Core Strategy Policy CS20 and CS2 requires consideration of air quality and provision where appropriate for electric vehicle charging facilities. It is recommended that a condition be imposed requiring the provision of electric charging points as part of the development.

5.9 Flood Risk and Drainage

5.9.1 Having regard to the provisions of policy CS7 (Managing the Water Cycle) of the Core Strategy the application submission was referred to **Yorkshire Water Services** and the Council's **Design Services Drainage** team for comments in respect of drainage and flood risk.

5.9.2 **Design Services Drainage Team** were consulted on this application and provided the following comments;
'The site is not shown to be at risk of flooding, according to the Environment Agency Flood Maps. It is noted that surface water may be disposed of via soakaways. Infiltration tests should be carried out and calculations provided, in accordance with BRE Digest 365 to ensure no flooding for a 1 in 30 year rainfall event. Further information is included in the attached guidance document. Any connections to the public sewerage system will require prior approval from Yorkshire Water.'

5.9.3 **Yorkshire Water** were consulted on the proposal and provided the following comments; *'If planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure:*

*The development shall be carried out in strict accordance with the details shown on the submitted plan, "1622-520, dated Nov.19" and agreed in writing with the Local Planning Authority.
(In the interest of satisfactory and sustainable drainage)*

1) The submitted drawing 1622-520, dated Nov.19 is acceptable. In summary, the drawing indicates that surface water will discharge to multiple soakaways within the site, which we endorse. Provided that the site is constructed in full accordance with this drawing, Yorkshire Water require no further consultation in relation to this development.

Notes For The Developer:

i) if the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements.'

- 5.9.4 Based on the comments listed above, subject to a condition requiring the development be undertaken in accordance with the submitted drainage plan and a condition requiring soil infiltration tests and sizing calculations the proposal is considered to accord with policy CS7 of the Core Strategy. It is also recommended that the additional 'notes for the developer' from Yorkshire Water be included as an informative note within the decision notice.

5.10 Impact on Protected Trees and Biodiversity

- 5.10.1 The application site includes trees protected under Tree Preservation Order. The Council's **Tree Officer** was consulted on the proposal and provided the following comments;

- 5.10.2 *A tree report has been submitted with the application by Andrews Allen Associates dated 6th November 2019 which includes tree protection measures for the site during demolition and construction.*

- 5.10.3 Existing Access

It is proposed to re-align the access into the site off Littlemoor to the east of T2 Sycamore (TP11) which would encroach into the trees Root Protection Area (RPA) as shown on the Proposed Layout drawing reference 1622-500. To facilitate this, it is proposed that an above ground cellular confinement system is used in this area to avoid any root disturbance. This is acceptable as long as the area as described in the Arboricultural report and shown on drawing 1622-500 is hand dug with no heavy machinery used. If any major roots above 25mm are found then these should only be severed following consultation with the Council's Tree Officer.

5.10.4 *Car Parking bays*

To the frontage of the site off Littlemoor it is proposed that 11 parking bays are constructed with a further 20 in the location of the existing bungalow at 135 Littlemoor and a further 6 disabled bays along the west frontage of the main building. Bays 1 & 2 as shown on drawing 1622-500 are located within the RPA of T3 Sycamore (TP10) with the surface already laid to tarmac. There should therefore be no impact from the car parking bays but it is proposed that the soft landscaping area around the tree and frontage is expanded.

Car parking bays are also proposed in the location of the detached bungalow at 135 Littlemoor which is to the north of G1 of the preservation order. Excavations will be required around this area to create a batter to gradually retain the ground beyond towards the protected trees. These works are outside the RPA of the trees in the group and will have no adverse effect on the retained trees. Once the tree protection measures have been installed, the rooting environment of the trees along the southern and western boundaries will be unaffected by the development activities.

5.10.5 *Drainage layout*

A drainage layout plan has been submitted reference 1622-520 dated November 2019 which shows the drainage channels and soakaways throughout the site. None will have any impact on the retained trees and avoid the RPA's. The drainage layout is therefore acceptable as it stands.

5.10.6 *Lighting Scheme*

Details of the lighting scheme have been provided on drawing ASD-DN-13936 Rev R04 and 1622-510, however there are no

details of where the excavations for the cable runs will be. Further details should therefore be provided or a statement stating that all cable runs will be outside the retained trees RPA's provided. It is also proposed that a lighting column is located approximately 7m away from T3 Sycamore which would be on the edge of the outer crown of the tree. This lighting column should be removed from the scheme to avoid the need to prune the tree in the future especially since there are other lighting columns proposed very close by.

5.10.7 *Landscaping*

A general landscaping scheme is included in the site layout drawing 1622-500 along with details of the tree planting within the Arboricultural report. It is proposed that 7 Rowan trees are planted around the main car parking area to the rear of the site. These small to medium sized trees are suitable for the site and will provide a valuable food source for birds in the winter months and produce a cluster of white creamy flowers in the spring. It is also proposed to extend the soft landscaped area to the frontage of the site around parking bays 1 to 11 which is to be sown with a wild grass seed mix. No other details have been submitted so a more detailed landscaping plan should be provided which provides the ground preparation details, seed mix and maintenance proposals for all areas to be landscaped. In addition to the proposed tree planting it is recommended that some low growing shrubs are planted which will be of benefit to birds, butterflies and bees in mitigation for the loss of grassland.

5.10.8 *I therefore have no objections to the application as long as the following conditions are attached if consent is granted to the application:*

- Prior to the commencement of any demolition or development, protective fencing conforming to BS 5837 'Trees in Relation to Design, demolition and construction - Recommendations' 2012 should be erected in the location as shown on drawing 1622-500 to provide a construction exclusion zone. The protective fencing as described in the tree report appendix 1 shall be retained intact for the full duration of the development and should not be repositioned or removed without prior written approval from the Local Planning Authority. There shall be no storage of materials within the root protection area unless otherwise agreed in writing by the Local Planning Authority and the tree protection measures outlined in the Arboricultural*

Report by Andrews Allen Associates dated 6th November 2019 shall be adhered to at all times.

- *The removal of the existing hard surface beneath the tree canopy of T3 (TP10) should be carried out without the use of any heavy machinery and care must be taken not to disturb tree roots that may be present beneath it. Hand held tools only should be used to remove the existing surface unless otherwise agreed in writing by the Local Planning Authority. There shall be no excavations deeper than the existing tarmac and sub-base and any roots exposed, should be wrapped in dry, clean hessian sacking to prevent desiccation and to protect from rapid temperature changes. Any wrapping should be removed before back filling which should take place as soon as possible. Roots smaller than 25mm diameter may be pruned back, preferably to a side branch, using a proprietary cutting tool such as secateurs or hand saws. Roots larger than 25mm should only be severed following consultation with the Council's Tree Officer, as they may be essential to the tree's health and stability. Prior to back filling, any hessian wrapping should be removed and retained roots should be surrounded with sharp sand (builders sand should not be used because of its high salt content which is harmful to tree roots) or other loose granular fill, before the soil is replaced.*
- *Details should be submitted of the construction activities around parking bays 1 & 2. The details should be provided in a method statement and drawing to demonstrate how any existing edgings and hard surface will be removed and how the new edgings and hard surface will be installed where they encroaches into the designated root protection area of T3 Sycamore.*
- *Prior to completion of the development hereby approved, details of treatment of all parts on the site not covered by buildings or hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:*
 - a) a scaled plan showing vegetation to be retained and trees and plants to be planted:*
 - b) a schedule detailing sizes and numbers of all proposed trees/plants*
 - c) Sufficient specification to ensure successful establishment and survival of new planting.*

- *There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).*

Reason for conditions: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.'

- 5.10.9 The comments from the Tree Officer have been noted. It is recommended that the conditions be imposed as above notwithstanding the following changes. The revised 'proposed illumination layout plan' proposes moving one of the 2m lighting columns on the site frontage away from protected sycamore T3 (TP10) now indicated to be 10m from T3, however it is necessary to note that drawing 'exterior lighting car park lighting revision 05' does not accurately detail the revised location. It is therefore recommended that a condition be imposed requiring the lighting column to be installed in the location on the proposed illumination layout plan. Additional details have been provided clarifying that the existing concrete edgings and tarmac under the canopy of T3 (labelled as bay 1 and 2) will be left as existing.
- 5.10.10 The **Derbyshire Wildlife Trust** were also consulted on the proposal and provided the following comments;
'The application does not include any ecological information; however, as the proposals include demolition of an existing building there is potential for roosting bats to be affected. Planning policy requires the council to fully consider the impacts on European Protected Species such as bats as part of the decision making process when assessing a planning application and therefore we must advise that the application does not include sufficient information at this time.'

As a minimum, an ecological survey should be undertaken to assess the suitability of the structure for use by roosting bats. This daytime survey can be carried out at any time of year; however, if the results indicate that the structure is suitable for bats or evidence of a roost is found then further surveys would be required during the peak bat activity season (May to August inclusive) to provide survey effort compliant with current good practice guidelines. Presence of nesting birds should also be considered.

The surveys should be undertaken by a suitably experienced ecologist, ideally with membership of a relevant professional body such as CIEEM that has recognised professional standards and code of conduct. These surveys would all be required prior to determining the application.

I would also like to reiterate the comments made in the Trust's response to an application for a similar scheme at this site earlier in 2019 that is understood to have been refused. Whilst the existing grassland habitats on site are unlikely to be notable, the proposed car parking will result in a significant loss of the existing green space.

A small area of soft landscaping is retained around the perimeter of the car park and provided this is planted and managed in the longer term to provide a high quality, species-rich grassland habitat this will help to avoid a net loss of biodiversity value. We are pleased to note that seven new trees are also proposed and confirm that mountain ash is a suitable native species, producing berries that provide an important winter food source for birds.'

- 5.10.11 The applicant has subsequently submitted a 'Bird & Bat Survey - Preliminary Roost Assessment' on 30.01.2020. The survey was undertaken by Midland Ecology and the report was checked by a member of MCIEEM. The assessment concludes '*that the buildings show only negligible suitability for use by roosting bats. It is considered likely-absence of roosting bats from these buildings has been established, and that the site is unlikely to play a significant role in connecting the wider landscape. The proposals are therefore unlikely to result in disturbance and/or harm to bats. No further surveys are recommended.* The results of this type of survey are generally considered to be valid for a period of 24 months from the survey date. Should the

proposed works not take place before the 16th January 2022, then the survey should be repeated.'

- 5.10.12 The Derbyshire Wildlife Trust have been re-consulted on the submitted document and at the time of writing this report no further comments have been received. It is therefore recommended that a condition be imposed requiring the complete demolition of the presbytery by 16.01.2022 or if after this date a further 'Bird & Bat Survey - Preliminary Roost Assessment' shall be submitted for consideration and written approval.
- 5.10.13 The revised lighting scheme also reduces the lux levels across the site with 0.5 lux adjacent to the boundaries. Comments on the previous application recommended that lighting should not exceed 1 lux adjacent to gardens as higher levels which may deter foraging bats.
- 5.10.14 It is recommended that conditions are attached to the decision requiring further details of proposed hard and soft landscaping prior to installation on site and to ensure that the planting is maintained. Subject to the imposition of conditions covering the above, the proposal accords with the provisions of policy CS9.

5.11 Coal Mining Legacy

- 5.11.1 The planning application site lies in an area covered by the Coal Authority's referral area and as such it was necessary to consult **The Coal Authority** on the proposal in accordance with Core Strategy Policy CS8.
- 5.11.2 **The Coal Authority** provided the following comments;
'I have reviewed the site location plans and the proposals and supporting information submitted and available to view on the LPA website and can confirm that the site falls within the defined Development High Risk Area. The Coal Authority records indicate that the application site lies in an area of likely historic unrecorded coal mine workings at shallow depth. As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application.'

5.11.3 *However, when considering the nature of this particular development proposal, it does not appear that the erection of the canopy and works to create additional parking will require substantial foundations or earthworks. On this basis we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the scale and nature of the development proposed in this particular case and **do not object** to this planning application. However, the Coal Authority does recommend that, should planning permission be granted for this proposal, the following wording is included as an Informative Note on any planning permission granted:*

5.11.4 *The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. 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 a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority*

- 5.11.5 The proposal accords with the provisions of policy CS8 and it is recommended that the informative detailed above be attached to the decision notice.

6.0 REPRESENTATIONS

- 6.1 The application has been publicised by neighbour notification letters sent on 03.12.2019. Two site notices were also displayed on 17.12.2019, deadline for responses 09.01.2020. As a result of the notification process 7 letters of objection have been received

6.2 20 Dukes Drive (17.12.2019)

- Objection to the planning application as the issues raised in the last application have not been fully addressed. The Plymouth Brethren are still quoting approximately 550 – 600 persons arriving at any one gathering. This was pointed out by a councillor who used to attend St Hugh's that the building is not suitable for that number. Looking at the plans which are difficult to interpret from an A3 printout a reasonable estimate with the proposed extra fire doors and taking into consideration the seating of the congregation best estimate would still be limited to 200/250 people. Working to government guidelines 70 car parking spaces should be sufficient.
- The proposed introduction of this heavily used car parking development within a predominately residential area the health and well being of residents should have highest priority. Great concerns regarding vehicle emissions reminded of daily in the media and the NHS has this as one of their top 10 concerns regarding clean air/pollution and people exposed to exhaust fumes can develop lung cancer in later life
- At the last planning meeting we attended the subject of lighting disturbance and recognised health issues for local residents was raised. It was pointed out by a councillor that for a large part of the year it is dark early and the application still proposed 2m lights on the perimeter and 4m in the central area. Other examples of low level lighting used in caravan site and other light sensitive areas could be used to enable people safety.
- The applicants states that when the property was used by St Hugh's RC church the congregation utilised Littlemoor Road and Dukes Drive for parking putting pressure on local infrastructure, hazards for traffic and nuisance for residents. I have lived on Dukes Drive apart from 6 to 8 cars parking for a Sunday morning services for 1 to 2 hours, drivers took residents into consideration and no disruption was caused. If this development is going to

cause so much disruption and nuisance and a certain eyesore then with the size of their stated congregation the property is probably not suitable.

- The applicants proposed to use the car park every day of the week anticipating maximum numbers to be 550 to 600 the same number arriving 2-3 times in a week between the hours of 8:00 - 21:00 on a Saturday and 11:00 – 19:00 on a Sunday. There is no provision for any respite days which intrudes on our days of rest and infringes on our right to enjoy our properties
- Applicants refer to charity work in gain favour.
- If the car park is to go ahead the number of spaces at the rear should be reduced and not used at the weekend especially Sunday or to have parking bays in the central area only minimising the health risk from exhaust fumes
- If central parking suggestion is not workable then a border of at least 4m around the perimeter with proposed new screen fence on the entire boundary not just selected areas.
- No long stretched of parking bays but zones broken up by more landscaping every 4th bay. Lighting to be no more than 1m high LED low impact type and at the front of the parking bay away from the boundary.

6.3 22 Dukes Drive (23.12.2019)

- Request the following details are made available – capacity of existing church building, internal room dimensions inside existing church building, width and number of fire escape doors, number of seats to be provided, layout of seat and whether the seats will be fixed or non-fixed.
- These factors such as number of fire exits will determine the building capacity and must be calculated to establish capacity prior to use and fire risk assessment undertaken to comply with fire safety regulations
- Capacity of building is also a determining factor in the number of car parking spaces. Given that government guidelines encourage car sharing of more than 2 people we believe that the request for 113 spaces is in excess of the capacity of the church building. Current indicator are between 70 and 80 spaces re required
- Applicant has declared the congregation in various numbers, trustees initially indicating 150 with the recent planning application fact sheet advising the congregation is made up of approximately 500 persons arriving in around 100 cars followed by 550 – 600 people at any one gather, this indicates that the intention is to use

- the car park heavily everyday and throughout the day. Information in respect of congregation size is confusion and misleading
- Highlight unlikely building of this size can hold 550 – 600 people for safety reasons. We are aware that when this building was the former St Hughs Roman Catholic Church held no more than 250 people.
 - Based on the information supplied 550 – 600 people arriving in around 100 cars. If 600 people were to travel this equates to 6 people per car. If the capacity of the building is 250 then 42 car parking spaces in total would be adequate
 - Item Number 19 of application form refers to hours of opening – this has been answered no, with this in mind it should be simple to implement time restrictions outline in our letter (see below)
 - We ask that the form is completed accurately and in its entirety – item number 23 regarding pre-application advice asks if assistance or prior advice been sought from the Local Authority about the application. The applicants have answered yes but failed to complete the section omitting to declare the information required which asks if yes please complete the following this includes officer name, reference, date and details of pre-application advice.
 - The car parking spaces are too close to the boundary of our home and garden. This was one of the reasons the previous planning application was declined. Our original concerns remain in respect of general noise, lights from vehicles shining into our home, privacy in our home and gardens and a reduction in air quality caused by pollution from vehicle emissions. There has been no change overall in circumstance.
 - One of the top 10 priorities of NHS England is to reduce air pollution to prevent respiratory conditions and hospital admissions. The car park at the rear of our home at what is currently a field will undoubtedly affect our health, young child and surrounding residents.
 - We live in a quiet/private/respectful area, being in such close proximity to a car park will be a constant nuisance to neighbouring properties and there will be a lack of privacy in our home and garden.
 - Neither Cars or pedestrian traffic have ever had access to this area and the introduction of a car park and sound created by vehicles and members of the congregation, along with the time of day when noise will occur will have a massive impact on our home life. Noise will carry into our home and garden. These negative impacts need to be addressed and minimised, or the application refused as we should not be adversely affected in any way. We would also ask

that the existing building is sound proofed. As stated there has been no change overall in circumstance.

- Should this application be approved, we ask that it is granted on the basis that car parking is available in the central area of the field only and that no vehicles are allowed to park around the perimeter fence, within the vicinity of surrounding properties. We consider this a compromise from both parties.
- Conserving and enhancing the existing landscape character is a must. A car park is not in keeping with the surrounding area. Under no circumstances do we wish trees planted at the boundary between our garden and the land in question as this would obscure our view and affect our boundary. Additionally, we have concerns that any trees or bushes would not be maintained and would soon become overgrown
- Looking at the design model submitted, we question the finished car park ground levels, on the plans. The 'Planning Application Fact Sheet' advises that 'the intention is that levels will remain similar to the existing finished level; if anything, where will be additional dig out to suit the new carpark flow, along with some retaining structure.' Yet, 'Proposed Drainage Layout Plan, Drawing Number 1622-520, indicates a significant drop in the car park levels and 'Proposed Sections, Section C – C and Section D – D' show finished car park levels with a drop of what looks like 5'. Again there are no measurements. Please provide relevant details/measurements.
- There are no diagrams indicating traffic flow. Vehicles driving towards our home will result in car head lights shining into our homes. We ask that details regarding traffic flow are provided.
- Car parking to be available in the central area of the field only (Item 3, paragraph 5 refers).
- We question the adequacy of proposed drainage 'soak-away' system especially in light of climate change and the heavy rain the Country is experiencing on a regular basis.
- The published plans are difficult to read and decipher and we ask for clarification of the height and number of lights proposed not only in the car parking area but also those sited on the existing church building.
- We have concerns regarding any high luminaire bright light that will shine into our homes and garden and ask that any lighting is low level, with posts of no more than 1m in height, similar to the new lighting system around the new multi-storey car park in Chesterfield. We would question the need for any lighting to be

brighter than the existing lighting on Dukes Drive or the need for any white light.

- We also seek assurance that, if approved, when the rear car park is not in use, lights remain switched off in this area, particularly when the church building and front car park are in use. To light the rear car park at these times would be an environmental issue and pointless when barriers will prevent cars from entering.
- Additionally, the introduction of artificial lighting is out of character with the existing area which is intrinsically dark. Artificial lighting will have a negative impact on wildlife, our home life, our enjoyment of the night sky and more importantly on our health, family life and quality of life. We sleep in bedrooms at the rear of our home where the lights will be sited and it is a well known fact that the body's production of melatonin is slowed by light resulting in health issues. Again there has been no overall change in circumstance.
- We have highlighted health concerns throughout in respect of noise disturbance, privacy, air pollution/ air quality and light issues and all of our original concerns remain with no overall change in circumstance.
- Unfortunately, the applicants have once again failed to declare the hours when the church and car park will be in use. Instead they have stated 'early morning, mid-morning, balance of day, late afternoon or evening'. Any declared times are not clear and we ask for the ACTUAL TIMES 'early morning, mid-morning, balance of day, late afternoon or evening' refer to. Regrettably, this information has never been made available throughout this or the previous planning application process. What is the reason for being so evasive? Without this information, there has been no change overall in circumstance.
- We are aware that the existing church building is currently in use at various times during the day and night. An example of this is, having been woken by our poorly child the evening of 22 December 2019, lights were switched on in the building at 11.30pm and in the early hours of 23 December 2019 at 1.15am, 5am and 6.30am. This suggests that once the church is in constant use, the building, car park and lighting will be utilised throughout the day and night. This would be disrespectful and grossly unfair to residents. It would also not be in keeping with this residential area and is perhaps not the ideal place for the Plymouth Brethren after all. We would go in so far as to say it would be an infringement on our human rights to enforce such disturbance on us.
- The last planning application was refused by the Local Planning Authority at the meeting on 10 June 2019. At that meeting a

Councillor sought assurance from the applicant's representative that the times of use of the rear car park on Saturdays and Sundays would not be before 9am and this was agreed. Further to this, if the application is granted, we ask that a restriction is imposed and the rear car park is not used before 9am or after 6pm Monday – Friday. This would provide a lengthy 9 hour window of use during waking hours; albeit the disturbance would still eat into our leisure time and home life.

- Furthermore, we ask that the use of the car park at weekends and bank holidays is restricted as these are our days of rest which we would like to see respected and the rear car park not used on these days.
- We have no doubt that the comings and goings and lighting in the car park will be a disturbance to residents and to have hours of use extending outside of our proposals would be a source of relentless disturbance and unfair to residents. By restricting hours of use we hope that noise disturbance will be alleviated in some way and not be a continuous dread to residents. (Item 2 also refers.)
- The open field, trees and hedges remain a foraging, commuting and resting site for bats. The bats are registered with the Derbyshire bat Conservation Group and National Bat Conservation Trust. Once again, we ask for a professional survey to be undertaken in respect of the bats, given the bats have been in hibernation over the past few months. The long term negative effect on the bat population caused by artificial lighting and the building of a hard-standing car park should be considered. Additionally the field and surrounding trees and hedges are home to an abundance of wildlife including a family of foxes, insects, butterflies and birds including sparrow hawks.
- We are pleased to note that access and exit points have been removed from Dukes Drive. However, concerns remain with traffic leaving and accessing the car park. At busy times this will cause cars to back up onto Littlemoor, the roundabout and Dukes Drive and Dukes Drive will undoubtedly be used as a 'rat run', when we already experience speeding traffic. Derbyshire County Council's, Highway Agency letter of 01 March 2019 from Mike Ashworth, Strategic Director, Economy, Transport and Environment advises:
 - This application is for the provision of a large number of car parking spaces only with no justification given for their provision.'
 - 'For such a proposed increase, the Highway Authority would look for improvements to the access to bring it in line with current standards.'

- The Highway Agency then goes on to suggest a solution. This has also been reiterated by Derbyshire County Council Highways Consultation, when again the comments from the previous application were confirmed on 12 December 2019. However, the applicant's appear to have disregarded the advice and the original concerns remain with no change overall in circumstances.
- Additionally, the applicant's 'Planning Application Fact Sheet' states 'Former users of the church utilise Littlemoor Road and Dukes Drive for parking, putting pressure on the local infrastructure, causing hazards for traffic and nuisance for local residents which this scheme aims to eliminate.'
- As residents of Dukes Drive we can say this is untrue. Former users of St Hughs Church were very mindful of car parking and we were never aware of any hazards caused or nuisance parking.
- The demolition of the presbytery gives rise to unease as we feel that it is only a matter of time before further plans are submitted for either an extension to the church building or an additional building, given the number of people expected in the congregation and the fact that it is highly unlikely that 550 – 600 people will be allowed to congregate in the current church building for safety reasons, additional space will be required. We also note the time of submission of this application, resulting in a time-frame for response of 24 December 2019 as underhand. This is a busy time of year when most people are concentrating on family life rather than responding to planning applications, something the applicants will be aware of and is perhaps in the expectation that people will be unable to meet the deadline.
- For the applicants to heavily endorse their charitable work we feel is to gain a favourable position; when many people undertake worthwhile charity work or support worthwhile causes but do not feel the need for this to be taken into account. The fact that this has been mentioned should not have any influence on the decision making process. Additionally, it seems extravagant to demolish a 3 – 4 bedroom bungalow/ presbytery when this could be used for charitable purposes.
- Furthermore, it is unacceptable that members of the Plymouth Brethren have taken a coercive approach towards older members of our community, accompanied by comments that the land will be sold for building if this application is not granted.
- Without doubt, a hard-standing car park will have a significant impact on existing residents and the environment. There has recently been much construction work in the Newbold area and the area is becoming heavily populated with increased housing, traffic

and shrinking green areas. Overall the proposed car parking area to the rear of the church building is not sympathetic to local surroundings or residents.

- Whilst there have been changes to the original planning application in respect of the additional proposal to demolish the presbytery and entrance/ access routes onto Dukes Drive have been removed, along with the incorporation of slightly more green space in the car parking area, there has been no change overall in circumstances in terms of the actual car park from the time of the original application and the original reasons for the decision to refuse the building of a car park remain valid.

6.4 24 Dukes Drive (24.12.2019)

- Many of the points raised in our objection letter (dated 10.04.2019) still stand (previous objection letter re-attached to latest comments therefore copied below) in particular the nature and conservation of the area will be affected by the removal of green spaces to be replaced by tarmac and lighting.
- We have health concerns about the scheme, our bedrooms are to the rear of the property and are concerned the lighting will impact sleep and health
- Concerned about early morning and evening noise in particular closing of car doors, loud conversations and children
- Believe the air quality will be adversely affected if cars are parking the other side of our garden fence which will aggravate existing respiratory problems.
- In terms of the traffic and congestion we welcome the change of plan regarding the flow of vehicles entering and leaving the car park. However the points made previously about traffic flow are relevant and we stand by the view that the scale of proposal is unnecessary and unhealthy. The church has been used by the applicant for a year now and they have managed without the need for this car park. We are aware of no issues during that period
- We still feel strongly that the proposal is unreasonable and disproportionate to their actual needs whilst unfairly impacting on wildlife and health of the neighbourhood.

Comments from previous objection letter re-attached (but refer to the previous scheme;

- Bats seen on a daily basis and concern that bats will be driven away due to change in lighting. Derbyshire Wildlife Trust advise that light spill should not exceed 1 lux adjacent to gardens as not to

deter foraging bats. The trust consider the current light spill to be 5 lux.

- A family of foxes and varied birds come and go between our garden and St Hugh's field.
- We note that the planning application states that the lighting will provide an average 12 lux, which suggests that some lighting units will produce more than 12 lux.
- We sleep in bedroom at the rear of the property and we fear the proposed lighting would affect our sleep and general health.
- We are concerns about early morning and evening noise from the car park and in particular car engines, car doors closing, conservation and children.
- Air quality will be adversely affected if car are parking just the other side of our garden fence. We fear this will aggravate existing respiratory problems.
- The applicant suggest vehicles will enter and leave the car park in a single direction either coming to or departing from a service, using an example of a taxi arriving and leaving after dropping someone off and we know the driveway cannot be widened due to tree preservation order. The obvious place a for a second access is on Dukes Drive
- Note comments on statement regarding usage and traffic patterns – there is of no guarantee of numbers attending and times of meetings. Will there be a second barrier restricting cars entering the rear car park. Statement suggests bible readings would 'sometimes' full the car park and this takes place four days of the week at late afternoon or evening, therefore likely to be during rush hour affecting congestion on nearby roads and the scale of proposal is unnecessary and unhealthy.
- Existing problems with cars accessing the car park and reversing onto main road to allow cars to exit or manoeuvre into spaces. Existing spaces are tight due to proximity to protected trees and the number of cars involved each week was less than 20 (around half a dozen cars in the car park for the full hour and a dozen or so dropped off and later collected children)
- The proposal does not appear to consider alternative methods of transport which is not compatible with planning regulations or changing attitudes towards the environment
- The Highway Authority recommends the application be refused for 80 car parking spaces. Not consistent with the plan which shows more spaces and 80 spaces considered to be too much for nearby roads to cope with.

- Feel there has been a lack of consideration of neighbourhood, environment and other road users.
- Request that car parking is limited to reasonable times and that neighbours are not woken by people attending church early in the morning or leaving in the evening.
- Applicants state the car park would 'sometimes' be fully utilised which suggests the proposed number of spaces is disproportionate to actual need and will unfairly disrupt wildlife and the neighbourhood.
- Former St Hugh's was well attended and car parking wasn't an issue for those attending or for neighbours when on street parking occurred.
- Vague and inconsistent information demonstrated by proposal to lower kerb at three points on Dukes Drive which no explanation why and no explanation why emergency access would be required and circumstances for route being used which could cause issues for neighbours on Dukes Drive which is a fairly narrow residential road

6.5 28 Ringwood Avenue (24.12.2019)

- The lighting issue shows 2m and 4m lights on posts and 2m mounting on the site of the building. At the last planning meeting it was noted that low level lighting would be considered – has this been done?
- The ash trees – has a specified height and width being given as to how far they will grow and how invasive are the roots systems as the plans show planning close to the existing boundaries
- Even with the proposed fencing and 3m gap from existing boundary will the noise levels from car engines and people talking be tested and will an acoustic membrane be considered if necessary?

6.6 37 Dukes Drive (02.01.2020)

- At peak hours the traffic on Littlemoor towards junction with Newbold road are very high. Traffic frequently causes long queues along Littlemoor beyond exit/entrance to proposed car park and often see increased traffic on Dukes Drive at these times as vehicles attempt to avoid queues for roundabout junction
- Concerned that 90 -100 cars with peak around church services and between 500 – 600 people arriving and departing regularly and daily will increase pressure on traffic in the area
- Vehicles will divert onto residential road to bypass the queues which brings safety and pollution concerns

- The proposal seeks to retain the current entrance way as the only way of accessing car park. This is a narrow gateway not wide enough for two cars to pass each other. As a result if vehicles attempt to exit the car park at the same time as any vehicles arriving, entering vehicles would be forced to wait for the entrance to clear. There is insufficient room for vehicles to pass at this point on Littlemoor result in cars queuing back towards the roundabout further blocking traffic flow. Vehicles frequently block the junction of Dukes Drive and Littlemoor whilst queue despite a 'keep clear' box and further traffic will aggravate this situation.
- The number of parking spaces is wholly inappropriate for the limited access available to the site and the nature of the residential area the development is situated within.
- I note earlier proposals included access being taken from Dukes Drive has been removed, the current car park design would allow this to be added in the future which should not be permitted
- I support the comments made by other neighbour.

6.7 26 Dukes Drive (02.02.2020)

- Timing of consultation was underhand expecting people to respond to the application with short notice over the Christmas period.
- Support the views of other neighbour objections
- Proposed development will effect wildlife, environment and busy traffic in the area

6.7 Address not provided (15.01.2020)

- Lights from cars shining into home
- Noise nuisance and emissions from car exhausts
- Number of car parking spaces is not justified for the number of people the building holds
- The hedges have also been left to overgrow

6.8 **Officer comments**

- **Highway safety/congestion/alternative modes of transport/cycle provision – see section 5.8**
- **air quality/pollution/noise – the Environmental Health Officer was consulted on the proposal and has raised no objection with regards to air quality/pollution/noise arising as a result of the development subject to the conditions recommended.**
- **height and number of lighting columns – The application has been reviewed by the Environmental Health Officer with recommended conditions to prevent adverse impacts on the**

amenity of the surrounding neighbours, including time restrictions.

- Excessive number of spaces – the Church has a large congregation and the application seeks to maximise the use of the site by enabling off-street parking to prevent significant on-street parking around the site.**
- Pre-application advice was provided, by the Development Management & Conservation Manager of the Planning Service. The fact that the named officer has not been referred to under Q.23 does not invalidate the application.**
- In response to the concerns that the Church building cannot hold the numbers of the congregation as suggested, the applicants have provided an estimated number of people arriving and confirmation that they would accommodate them accordingly. Health and safety compliance and fire escape provision is a separate matter controlled by separate legislation.**
- Times of use of car park – overnight etc/anti-social behaviour/security/events/restricted – the applicant has provided a statement which states that the site will be locked when not in use and monitored by CCTV. The site will not be let to other users and is solely for the use of the Church.**
- Lighting/impact of cars at night – revised lighting plans seek to reduce impacts on neighbours, reducing the height of the lighting columns and average lux spill. It is recommended that a condition is attached restricting the operation of the lighting and shrouding lights to prevent glare. The site is bound by fences and hedges. The revised scheme proposes the erection of a fence to shield the non-solid boundaries and prevent glare/ disturbance from headlights – the height and style of fencing is to be controlled by condition and further conditions can be imposed to ensure lighting is switched off at night/when not in use. See section 5.7**
- Hard surfacing/materials – revised plans introduce variation in materials, to visually break up the hard surfacing.**
- maintenance of site including landscaping and boundary treatments – it is recommended that a condition be attached requiring further information on hard and soft landscaping proposal including a maintenance schedule**
- Loss of habitat/impact on wildlife/loss of greenspace and comments from the Derbyshire Wildlife Trust and submitted bird and bat survey and section 5.10 of report.**

- **Damage to trees – see section 5.10. The Council’s Tree Officer has considered the application and raised no objection to the revised details submitted and the application will be bound by the details submitted and to accord with the provisions of the conditions.**
- **Drainage – see section 5.9**
- **Loss of view/sightline of field – considered to be a ‘non-material’ planning consideration and therefore cannot be given any weight in the determination of a planning application.**
- **Noise/disturbance/residential amenity – see section 5.7. The site is an existing place of worship and therefore can be used at any time without the control of the Local Planning Authority.**
- **Time of neighbour notification – letters sent out on 03.12.2019 with the minimum standard notification period which expired on 24.12.2019. The deadline is a minimum timeframe only and comments received after the deadline are still taken into account. Two site notices were also displayed which expired on 09.01.2020.**
- **Size/location of proposed trees – reviewed by Tree Officer and considered to be acceptable specimen for the location.**
- **Maintenance of existing hedgerows would be a private matter between parties.**

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 objectors, 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. Pre application advice was provided.
- 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 principle of the scheme to develop an existing community asset, retaining the existing use as place of worship is considered to be generally acceptable (policy CS17). Overall, the proposal is considered to be acceptable in design and appearance terms. Subject to the conditions recommended it is not considered that that the proposal would result in significant adverse impact on the residential amenity of the neighbouring properties. The proposal would provide parking arrangements to meet the needs of the church congregation and would avoid the inevitable on street parking which would occur without the on site parking area.

Therefore, on balance the proposal is considered to accord with policy CS1, CS2, CS7, CS8, CS9, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework.

10.0 RECOMMENDATION

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

Conditions

Time limit

1. 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 Compulsory Purchase Act 2004.

Approved plans

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below). All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below) with the exception of any approved non material amendment
 - Design and access statement produced by Andrews Allen Associates 580-1622 Revision B (dated 11.01.2020, received 22.11.2020)
 - Bird & Bat Survey – Preliminary Roost Assessment produced by Midland Ecology (dated 16.01.2020, received 23.01.2020)
 - Pre-Development Arboricultural Report 590-1622 revision A (dated 19.01.2020, received 23.01.2020)

SITE PLANS

- Site location plan, drawing number 1622-540 (dated Nov 2019, received 22.11.2019)
- Proposed plan (church layout), drawing number 560 -1622 (dated 15.11.2019, received 22.11.2019)
- Proposed elevations drawing number 1622 -570 revision A (dated 14.11.2019, received 22.11.2019)
- Proposed layout & surfacing plan/sections, drawing number 1622-500 revision F (dated 19.01.2020, received 23.01.2020)

DRAINAGE

- Proposed drainage layout plan, drawing number 1622 – 520 Revision A (dated 13.01.2020, received 23.01.2020)

LIGHTING

- Exterior lighting car park lighting, drawing number ASD-DN-13936-DWG-SHEET 1 of 1 Revision 05 (dated 27.01.2020 received 30.01.2020)
- Proposed illumination layout plan, drawing number 1622 – 510 revision B (dated 13.01.2019, received 23.01.2020)

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.

Construction hours

3. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials

Reason - In the interests of residential amenities.

Condition regarding timescale for demolition and bats

4. The demolition of the presbytery shall be completed by 16.01.2022, unless otherwise agreed in writing by the Local Planning Authority and supported by a revised up to date 'Bird and Bat Survey – Preliminary Roost Assessment' submitted for considered by the Local Planning Authority and formal written approval.

Reason – to ensure the demolition does not harm protected species and in accordance with the requirements of CS9.

Surface water drainage

5. Prior to the installation of surface water drainage infrastructure, full details, including design calculations and construction details, for the disposal of surface water which shall include the provision and implementation of a surface water regulation system and storage facility shall be submitted to and been approved by the Local Planning

Authority in writing. The implementation of such details as approved shall be subject to soil/porosity tests for all soakaways, as deemed necessary by the Local Planning Authority and the development shall not be occupied or used until written confirmation has been received from the Local Planning Authority confirming approval of both the porosity tests and the completed surface water drainage measures.

Reason - To ensure that no drainage discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

Lighting shroud

6. All the lighting units shall be appropriately shrouded to prevent glare or dazzle to adjacent residential properties.

Reason - In the interests of residential amenities

Lighting hours restriction

7. The lighting hereby agreed shall not be used between the hours of 22:00 and 07:00 on any day. Other than security lighting the car parking lighting scheme shall not be used when the premises is not in use.

Reason - In the interests of residential amenities

Lighting column further away from RPA of T3 (TP10)

8. Notwithstanding the details shown on the approved lighting plan 'Exterior lighting car park lighting, drawing number ASD-DN-13936-DWG-SHEET 1 of 1 Revision 05' (dated 27.01.2020 received 30.01.2020), the single 2m lighting column located to the south east of protected sycamore tree T3 (detailed as T10) shall be located 10m from the stem of the protected sycamore.

Reason – To preserve the tree T3 protected by Tree Preservation Order 4901.241 St Hugh's Church, Littlemoor/Dukes Drive (2004).

Soft landscaping

9. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of soft landscaping works for the approved development shall be submitted to the Local Planning Authority for consideration. The required soft landscaping 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, and 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

Tree protection measures

10. Prior to the commencement of any demolition or development, protective fencing conforming to BS 5837 'Trees in Relation to Design, demolition and construction - Recommendations' 2012 should be erected in the location as shown on drawing 1622-500 to provide a construction exclusion zone. The protective fencing as described in the tree report appendix 1 shall be retained intact for the full duration of the development and should not be repositioned or removed without prior written approval from the Local Planning Authority. There shall be no storage of materials within the root protection area unless otherwise agreed in writing by the Local Planning Authority and the tree protection measures outlined in the Pre-Development Arboricultural Report 590-1622 revision A (dated 19.01.2020, received 23.01.2020) produced by Andrews Allen Associates shall be adhered to at all times.
11. There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

Reason - Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.'

12. The removal of the existing hard surface beneath the tree canopy of T3 (TP10)/ **T2 (TP11)** should be carried out without the use of any heavy machinery and care must be taken not to disturb tree roots that may be present beneath it. Hand held tools only should be used to remove the existing surface unless otherwise agreed in writing by the Local Planning Authority. There shall be no excavations deeper than the existing tarmac and sub-base and any roots exposed, should be wrapped in dry, clean hessian sacking to prevent desiccation and to protect from rapid temperature changes. Any wrapping should be removed before back filling which should take place as soon as possible. Roots smaller than 25mm diameter may be pruned back, preferably to a side branch, using a proprietary cutting tool such as secateurs or hand saws. Roots larger than 25mm should only be severed following consultation with the Council's Tree Officer, as they may be essential to the tree's health and stability. Prior to back filling, any hessian wrapping should be removed and retained roots should be surrounded with sharp sand (builders sand should not be used because of its high salt content which is harmful to tree roots) or other loose granular fill, before the soil is replaced.

Reason - Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.'

13. Details should be submitted of the construction activities around parking bays 1 & 2. The details should be provided in a method statement and drawing to demonstrate how any existing edgings and hard surface will be removed and how the new edgings and hard surface will be installed where they encroaches into the designated root protection area of T3 Sycamore.

Reason - Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.'

Replacement planting within 5 years

- 14.** 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.

Hard landscaping

- 15.** 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 and surfacing finishes. These works shall be carried out as approved prior to the use of the car park.

Reason – to ensure protect the amenity of the surrounding occupiers, in accordance with Core Strategy CS2 and CS18.

Cycle Stands

- 16.** Before installation of the 6 Cycle stands hereby agreed full details shall be submitted to local planning authority for consideration. The details agreed in writing shall be implemented on site and shall be available concurrent with the use of the new car park and shall be retained as such thereafter.

Reason – to provide alteration modes of transport

Electric charging provision condition

17. Electric Vehicle charging points (EVCPs) shall be provided in accordance with the approved site layout for at least 5 no car parking spaces. The Charging points shall be available for use concurrent with the first use of the car park hereby approved. Thereafter the EVCPs shall be retained and maintained operational for the lifetime of the development.

Reason – In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

Fencing

18. Prior to the construction of the screen fencing in the position shown on drawing 1622-500 rev F, full details of the construction shall be submitted to the local planning authority for consideration. The fencing shall only be constructed in accordance with the details which have been agreed in writing by the Local Planning Authority and which shall be carried out in full prior to the first use of the rear car park. The fencing shall be retained thereafter.

Reason - to ensure protect the amenity of the surrounding occupiers, in accordance with Core Strategy CS2 and CS18.

Informatives

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. 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.

3. The Highway Authority recommends that the first 5m of the proposed access driveway 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.
4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. The developer should refer to the Council's 'Minimum Standards for Drainage' guidance in preparing any drainage proposals for submission /consideration
6. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp , E-mail highways.hub@derbyshire.gov.uk or Telephone Call Derbyshire on 01629 533190.
7. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken 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.
8. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine

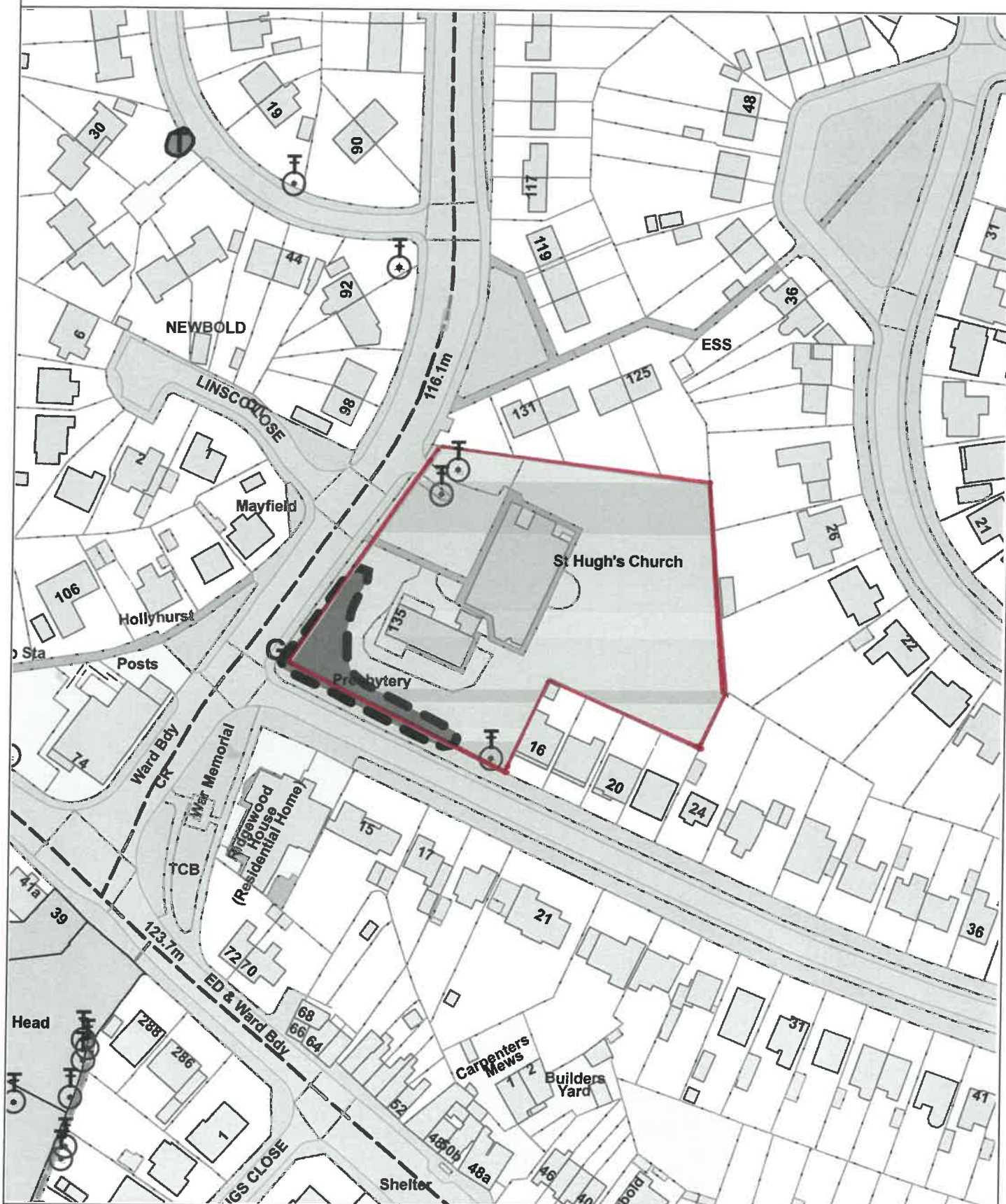
gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. 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 a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 7626848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

9. Yorkshire Water not for developer - if the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements.'

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Case Officer: Amy Hayes
Telephone: 01246 345784
Committee Date: 17th February 2020

File No: CHE/19/00670/FUL
Plot No: 2/1049

ITEM 3

PROPOSED CHANGE OF USE OF 197, FROM PART OF THE RETAIL UNIT AT 195, TO A TAKEAWAY, AND ASSOCIATED ALTERATIONS TO THE SHOP FRONT, INSTALLATION OF GLAZING TO FORMER DOORWAY TO SIDE AN INSTALLATION OF AN EXTRACT FLUE (SHOP AT 195 OLD HALL ROAD IS TO BE RETAINED) AT 195 – 197 OLD HALL ROAD, CHESTERFIELD, S40 1HG FOR MR KAPILRAJ GANESHALINGAM AND MR KARISAN KANASALINGAM

Local Plan: Unallocated
Ward: Holmebrook

1.0 CONSULTATIONS

Ward Members	Comments received from Cllr K Falconer- see report
Strategic Planning Team	Comments received- see report
Environmental Services	Comments received- see report
Design Services	Comments received- see report
Yorkshire Water Services	No comments received
DCC Highways	Comments received- see report
Neighbours and site notice	Comments received- 6 letters plus 1 petition (43 signatures)

2.0 THE SITE

- 2.1 The application site relates to part of an existing A1 retail premises within a predominantly residential area. The adopted Local Plan does not identify any land allocation or designation. The application has been received on behalf of the lease holders of the application site. It was noted during the officers' site visit that the application site had a business sign on the building identifying the business as to be known at "Open Most Hours". This sign was located on the north facing elevation. On the west facing elevation

there is a sign, predominantly above no. 195 Old Hall Road, identifying the retail convenience store as a “Go Local Extra”.

- 2.2 The part of the existing retail premises at no. 195 – 197 Old Hall Road that is proposed to be changed to a hot food take away was once formerly known as no. 197 Old Hall Road. The previous planning application for this site (CHE/15/00664/FUL) indicated no. 197 Old Hall Road had its own postal address but was used for ancillary storage purposes only. It was evident during the case officer’s site visit that this part of the retail premises is still utilised as storage area. This is also highlighted in the supporting letter submitted by the agent (pg. 2).
- 2.3 The application site is positioned on a staggered crossroads, comprising Old Hall Road, Barker Lane and Churston Road. The public highway on all sides of the junction is subject to double yellow line parking restrictions and Barker Lane is one-way only towards Old Hall Road. The premises has no associated on-site parking.



Above: The application site and surrounding area



side of Barker Lane. This is immediately to the north of the application site. To the north east of the application site, the premises shares a boundary with numbers 105, 107, 109, and 111 Barker Lane. To the east of the application site is no. 28 Barker Lane whilst to the south the premises is adjoined to no. 193 Old Hall Road. To the south west of the application site and on the opposite side of the public highway, the premises shares a boundary with no. 152 Old Hall Road. Number 152 Old Hall Road is a semi-detached property which is adjoined to no. 55 Churston Road. This property is located west of the application site.



- 2.5 Above the application site, at first floor level, there is a flat. This flat, according to information held by this LPA is no. 1 flat above the application site. It is understood that the applicant lives in this flat however no further information has been provided in relation to the flat above the application site.

3.0 RELEVANT SITE HISTORY

- 3.1 CHE/15/00664/FUL - Change of use of 197, from part of the retail unit at 195, to a takeaway, and associated alterations to the shop front, installation of glazing to former doorway to side and installation of an extract flue (shop at 195 Old Hall Road is to be retained) - revised information received 27/01/2016. Conditional permission granted 23/02/2016

Officer comments:

This application was recommended by the officer as a refusal. The officer's report was presented to planning committee with the following reason for refusal:

"In the opinion of the Local Planning Authority the proposal would increase demand for on street parking where there is already considerable competition leading to vehicles performing awkward manoeuvres within a classified highway in the vicinity of the staggered crossroads to the detriment to highway safety. Development of the nature proposed would also increase the likelihood of indiscriminate vehicle parking on sections of the carriageway that are currently subject to double yellow line parking restrictions further prejudicial to the safe operation of the highway. The proposal therefore fails to accord with the requirement of Policy CS18 (g) of the Local Plan: Core Strategy, which expects developments to provide adequate and safe vehicle access and parking."

- 3.2 The application was presented to planning committee on 22nd February 2016. During this meeting, the agent and applicant (not the same applicant as this application), indicated that the proposal would contribute to the vibrancy and vitality of the area which would provide a local facility for which there is currently non in the

area. The applicant indicated the service would provide a hot food delivery service for the local population so that carers would not have to buy frozen foods.

3.3 Despite the officer recommendation which was presented to the planning committee, the committee voted to overrule this and the application was recommended to be conditionally approved. The committee minutes indicate members requested the *“applicant should display a notice in the shop requesting customers to park with consideration for others when visiting the shop.”*

3.4 As detailed in the application being considered, the conditionally approved application was not implemented within the three year period.

4.0 THE PROPOSAL

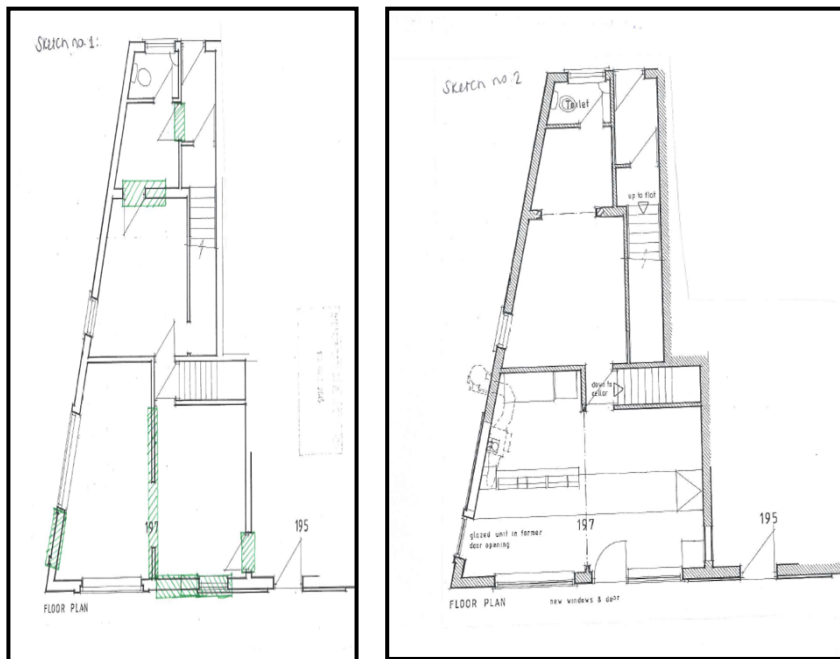
4.1 The application proposes the change of use of 197, from part of the retail unit at 195, to a takeaway, and associated alterations to the shop front, installation of glazing to former doorway to side and installation of an extract flue. The shop at 195 Old Hall Road is to be retained.

4.2 The proposed takeaway requires internal works to facilitate such proposed use. Currently, the part of the retail unit proposed to be changed to a hot food takeaway is accessed through the main retail shop front, with a door immediately to the left (to the north). The supporting letter defines this area as *“under-used retail space”*, and this space is shown in its current form in the drawing labelled as “Plan and elevations as existing” on the drawing no. V/0HRC/1.

4.3 The space, identified in the application form to be 57 square metres, comprises no. 2 rooms located to the south of the application site and therefore to the frontage of the site; a room behind these two aforementioned rooms with a storage area under the stairs. Finally, to the rear of the application site and therefore to

the north, there is the smallest room at this site which provides access to a W/C and a corridor to the rear door as well as the stair case to the flat above.

- 4.4 The alterations to the above mentioned space include internal reconfiguring to separate the existing under used retail space from the main retail space at no. 195 Old Hall Road. This is achieved by blocking the door immediately to the left of the entrance to the shop. In addition, further works at the rear would result in the flat having its own access, through the blocking up of the door that is currently accessed from the rear room.
- 4.5 The above detailed changes are highlighted below in the drawings provided with the application. The drawings are not to scale and are for illustrative purposes only.



4.6 The left hand drawing shows the existing

ground floor arrangement of the property with the right hand drawing showing the proposed arrangement. In addition to the above noted internal changes, the application proposes to make alterations to the external elevations of the property. Most notably, the proposed alterations include the addition of a door on the south facing elevation, as well a new window in this elevation.

- 4.7 The application also proposes to reduce the size of the advertisement display board currently located immediately to the west of the existing entrance to the shop. This alteration would result in the addition of no. 1 new window immediately east of the proposed door access to the proposed takeaway unit.
- 4.8 The proposed internal and external changes will result in a standalone commercial unit that does not have any link to the existing retail unit next door (no. 195 Old Hall Road), or the existing flat above. The proposal therefore identifies business hours for this proposed separate and different use of the premises.
- 4.9 The takeaway proposed is indicated to have business hours of 09:00 – 23:00 Monday to Saturday. The proposal does not detail business hours for Sundays and Bank Holidays.
- 4.10 Further information is also provided in the supporting letter that was submitted with the planning application. This also details further actions the applicant proposes to commit to, should planning permission be granted. These include;
- “patrol” the frontage of the application site to pick up takeaway wrappers;
 - Requesting groups of people who congregate outside the shop to move on;
 - Offering a delivery service for takeaways to reduce demand for vehicle parking outside. The applicant has also offered to deliver items from the existing shop next door, such as confectionary and drinks;
 - Reminding customers to park considerately and not on double yellow lines
 - A willingness to paint the flue system a colour as preferred by the LPA, controlled by a condition on any permission granted.
- 4.11 The application also proposes the addition of an external flue. The flue will be located externally and have a minimum height of 2.2 metres. The flue will have a maximum height of 7.5 metres.

4.12 The proposed flue will be located on the north east facing elevation of the property, and to the west of the existing windows in the north facing elevation. The flue is proposed to be finished in galvanised steel.

5.0 CONSIDERATIONS

5.1 Planning Policy

5.1.1 The site is situated within the built settlement of Holmebrook ward, in an area that is predominantly residential in nature. Having regard to the nature of the application, it is considered the following policies apply;

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in favour of sustainable development
- CS4 Infrastructure delivery
- CS6 Sustainable Design and Construction
- CS8 Environmental Quality
- CS13 Economic Growth
- CS15 Vitality and Viability of Centres
- CS16 Retail
- CS18 Design
- CS19 Historic Environment
- CS20 Influencing the demand for travel

5.1.2 Other relevant documents include:

- National Planning Policy Documents
 - Chapter 7 Ensuring the Vitality of town centres
- Guidance: Town Centres and retail, published 03/03/2014, Updated 22/02/2019 - *paragraph: 012 Reference ID: 2b-012-20190722*
- Retail and Centres Study – Chesterfield, Bolsover and NE Derbyshire, April 2018

- The Emerging Local Plan:
 - The emerging Local Plan (2018 – 2035) is also relevant- this is currently being examined and was the subject of hearing sessions in October/November 2019. The Inspector’s initial response has indicated a number of modifications that are currently being prepared for consultation. Weight should be given to the emerging policies in accordance with the criteria of para 48 of the NPPF. Where this is relevant to the determination of this application, it is highlighted below.

5.2 KEY ISSUES

- Principle of development
- Design and appearance of the proposal
- Impact on neighbouring residential amenity
- Highways safety and parking provision

5.3 PRINCIPLE OF DEVELOPMENT

5.3.1 Planning approval is sought for a hot food takeaway to run alongside an existing small convenience store which is located outside of a defined town, district and local service centre. The existing use of the floor space in respect of this planning application is storage associated to the existing retail store. The defined centres are identified on the proposals maps under CS15 (Vitality and Viability of Centres) of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031.

5.3.2 In such locations that are outside of the defined area, as a means of ensuring the vitality and viability of centres, Policy CS16 (Retail) of the adopted Core Strategy states that *“Across the borough, a sequential approach will be used to assess sites for retail and other town centre uses, to focus development on town, district, local services centres and local centres to meet the requirements of national planning policy.”* The policy continues *“Individual small*

shops (up to 200m²) designed to serve the day to day needs will normally be permitted outside centres.”

5.3.3 The National Planning Policy Framework states (paragraph 86) *“Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up to date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”* Policy CS16 of the Local Plan therefore adopts this approach and is consistent with the NPPF.

5.3.4 Comments received from the Strategic Planning Team indicate that this LPAs 2018 Retail Study uses the term “day to day needs” as defined by the *“Experian categorisation of convenience retail as “low cost, everyday food, beverages and perishable items that consumers are unlikely to be willing to travel far to buy”*. This definition is based on the National Retail Forum definition as *“Expenditure on goods in COICOP (Classification of Household Consumption published by the ONS) categories: Food and non-alcoholic beverages, Tobacco, Alcoholic beverages (off-trade), Newspapers and periodicals, Non-durable household goods. These categories do not include hot pre-made food.”*

5.3.5 It is therefore considered that a hot food take away is not considered to be a day to day need based on the definitions outlined above. This results in proposed hot food take away not falling into the exemption identified in policy CS16.

5.3.6 Furthermore, the requirements of Policy CS2 (Principles for Location of Development) of the Core Strategy, it is not considered that the principle for location of development can be justified.

5.3.7 Policy CS2 states *“In assessing the suitability of sites for specific uses the council will also take into consideration whether the proposed use:*

- i. needs to be in a specific location in order to serve a defined local catchment or need, to assess specific*

resources or facilities (including transport connections) or to make functional links to existing uses;

ii. is required to regenerate sites and locations that could not otherwise be addressed or to support existing community facilities that otherwise would be at risk of closure.”

5.3.8 In assessing the application against criteria i. above, it is considered that the proposal does not serve a defined need or make links to existing uses. As identified in section 5.3.4 above indicates, a hot food takeaway is not considered to be a day to day need and therefore cannot be considered to be a need in an area that is not defined as a local centre. Furthermore, as noted by the Strategic Planning Team comments (in Section 5.3.14 below), the location of the proposed hot food takeaway, in close proximity to Chatsworth Road, where there are existing hot food takeaways, it is considered the proposal will not serve a need to the area of the application.

5.3.9 Furthermore, the proposed hot food takeaway does not have functional links to an existing use. Whilst it is acknowledged the proposed change of use would regenerate part of the convenience store which is identified to be under used, if granted, the proposed hot food takeaway would have no other link (other than being the leaseholder) to the existing use. The plans submitted with the application (drawing no. V/0HRC/1) detail the proposed alterations required to facilitate the hot food takeaway. As a result, the proposal would no longer be linked to the existing business at the application site.

5.3.10 It is considered that the hours of business of the existing retail unit (known as Open Most Hours, located at no. 195 – 197 Old Hall Road) do not necessitate the proposed hot food takeaway to be located next door, given the hours of business at each:

<u>Name of business and hours of business/ proposed hours</u>
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Go Local/ Open Most Hours, 195 – 197 Old Hall Road (current)	Hot Food Takeaway, 195 Old Hall Road (proposed)
Monday to Friday 07:00 – 21:00	Mondays to Saturdays 09:00 – 23:00
Saturday, Sunday & Bank Hols 09:00 – 21:00	Sundays and Public Holidays unknown

5.3.11 The current (in the case of the existing convenience store) hours of business and the proposed hours of business do not indicate a need for the proposed hot food takeaway to be linked to the existing business. Business hours do not allow for one member of staff to solely operate both businesses, nor does the design of the proposal allow for a member of staff to move between the two businesses easily. Therefore, there is nothing to secure the future of the convenience retail shop following the approval of a hot food takeaway, should this LPA be minded to approve this planning application.

5.3.12 As outlined in the “Town Centres and retail” guidance, (*paragraph: 012 Reference ID: 2b-012-20190722*), “*robust justification will need to be provided*” where certain town centre uses may require to be in specific locations, “*land ownership does not provide such a justification*”. Therefore, the reason presented to this LPA in respect of the two applicants having the lease of the property does not constitute a valid justification for the location of this proposed hot food take away.

5.3.13 Overall, having regard to the policy context set out above, it is considered that the principle of development is not acceptable. As is revealed in comments from the Strategic Planning Team (see Section 5.3.14 below), the application has failed to satisfy the sequential assessment and therefore Paragraph 90 of the NPPF comes into effect. Paragraph 90 of the NPPF indicates the application should be refused.

5.3.14 In respect of the proposal detail within this application, the Strategic Planning Team were consulted. The comments received from Team are detailed below.

5.3.15 *The current development plan for Chesterfield Borough consists of the Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Borough Local Plan (2006). However, there is also the emerging Local Plan (2018 to 2035) – this is currently being examined and was the subject of hearing sessions in October/November 2019. The Inspectors’ initial response has indicated a number of modifications that are currently being prepared for consultation. Weight should be given to the emerging policies in accordance with the criteria of para 48 of the NPPF. Where this is relevant to the determination of this application it is highlighted below.*

5.3.16 **PRINCIPLE OF DEVELOPMENT**

The proposal would result in the creation of a new unit capable of operating independently as an A5 Hot Food Takeaway (the new unit having its own access separate from what will remain of the current A1 shop). The location is considered ‘out of centre’ for the application of planning policy (not in a defined centre or within 300m of the edge). The key policy considerations are therefore the application of the sequential assessment required by paragraph 90 of the National Planning Policy Framework and policy CS16 (Retail) of the adopted Core Strategy.

5.3.17 *Policy CS16 requires a sequential approach to retail and other town centre uses in accordance with national policy. It also creates an exemption from this requirement for “Individual small shops (up to 200m²) designed to serve local day to day needs”. The application would be less than this threshold (57sqm), but I do not consider a hot food takeaway to meet the description of ‘day to day’ needs, which I would interpret as being comparable to ‘convenience retail’.*

- 5.3.18 *The proposed A5 use would be a Main Town Centre use as described by the NPPF. The NPPF Glossary is deliberately broad in its definition of Main Town Centre uses, referring to broadly to 'retail development' but not hot food takeaways specifically. Helpfully the Planning Inspector determining an appeal on a nearby site at 2A Springfield Avenue clarified that "Whilst there is no explicit reference to hot food takeaways within the Framework, it does not suggest the examples given are definitive" and concluded that a sequential assessment for hot food takeaway use is required. The Inspector also concluded that the threshold in policy CS16 did not apply to the hot food takeaway use.*
- 5.3.19 *I am therefore satisfied that the exemption for day to day needs set out in CS16 does not apply in this case and that a sequential assessment is required.*
- 5.3.20 *Policy CS16 is due to be replaced in the emerging plan by a new policy LP10. The Inspectors examining the emerging plan have indicated a number of modifications to this policy so only limited weight can be given to it at this stage. Nonetheless I would note that both the submitted policy and proposed modifications would lead me to a different conclusion if applied.*
- 5.3.21 *The applicant has subsequently submitted information on four sites considered as alternative locations, all on Chatsworth Road. I am satisfied that limiting the search to Chatsworth Road is appropriate and that suitable sources have been used to identify properties for the assessment.*
- 5.3.22 *I note that three of the four properties have been rejected partly on the basis that they do are not currently hot food takeaways and would require a planning permission and a refit to make them suitable, the third is currently a Chip Shop, but would also require a refit. As the application property is currently a shop and would also require both planning permission and a refit, I have given no weight to this as a reason for rejecting these properties.*
- 5.3.23 *Based on the information submitted, I agree with the conclusions of the assessment of two of the four properties but do not consider*

that the remaining two can be concluded to be unsuitable for the proposed use when applying the guidance in the NPPG.

5.3.24 *On that basis I cannot conclude that the sequential assessment required by the NPPF has been met. As such paragraph 90 of the NPPF comes into effect, that “Where an application fails to satisfy the sequential test ...it should be refused”.*

5.3.25 *The NPPF does allow for other material considerations to be taken into account, and policy CS2 allows for variation from the spatial strategy in certain circumstances. The first of these does include where a development needs to be in a certain location to serve a defined local catchment or need – however given the prevalence of takeaway uses on Chatsworth Road limited weight should be given to this. The second addresses securing existing community uses but as there is no functional link or mechanism between the proposed takeaway and the shop that will remain (there is for example no mechanism that would prevent the retail unit closing at any point following a grant of permission for the hot food use) this would not apply.”*

5.3.26 The comments raised by the Strategic Planning Team are in line with the observations made by the Case Officer in considering the Principle of Development.

5.4 Design and appearance of the proposal

5.4.1 Core Strategy Policy CS18 states that *“all development should identify, respond to and integrate with the character of the site and surroundings and respect to the local distinctiveness of its context. Development will be expected to respect the character, form and setting of the site and surrounding by virtue of its function, appearance... scale and massing.”*

5.4.2 In addition to the proposed change of use, the application proposes the alteration to the existing shop front. These changes have been outlined above in Section 4.0 – The proposal. The proposed shop frontage will create no. 2 defined shop frontages; one for each business. This is considered to be acceptable and it is thought that this will positively contribute to the area.

5.4.3 The application also proposes an external flue system, which is to be located on the north east facing elevation of the application site. The previous case officer's report in respect of the previous planning application at this address (CHE/15/00664/FUL), details concerns in relation to the proposed flue system.

5.4.4 The previous report presented to Planning Committee read as follows:

"... during consideration of the planning application specific concerns were raised with the applicant with regard to the installation of the flue associated with the cooking extraction system on the side elevation of the building.

Owing to the prominent location of the flue on the Barker Lane frontage, it was considered that the galvanised steel structure at approximately 7.3 metres high by approximately 0.3 metres in diameter and terminating above the ridge height of the roof would represent an incongruous feature on the building... Moreover, owing to the juxtaposition of a Grade II Listed Building (170 Yew Tree House, Old Hall Road) on the opposite side of the road junction to the proposal, a direct view of the extraction system would be available, particularly during the autumn and winter months. It was therefore considered that the extraction system would have a detrimental visual impact on the setting of the Listed Building."

5.4.5 It is evident from the above extract from the previous report that the proposed flue extraction system is the same as what is being proposed in this application.

5.4.6 The case officer's report continued as detailed below:

"...it is considered that the proposed flue would need to be redesigned and relocated on the rear elevation owing to its prominence on the side elevation. in the event of an approval of planning permission, it is considered that the detail of such could be satisfactorily secured with by way of a pre-commencement planning condition."

- 5.4.7 It was concluded by the case officer that providing a redesigned extraction system was installed, the proposal would respond to and integrate with the character of the site and its surroundings and respect the local distinctiveness of its context.
- 5.4.8 The extraction flue system proposed in this application is presented in the same location, and with the same measurements and finish as the previous application. Therefore, on the basis of the observations above, it is considered appropriate to apply a pre-commencement planning condition to any approval of this consent. This would ensure the proposed extraction system has less prominence on the street scene and is located out of site from the Grade II Listed Building.
- 5.4.9 On the basis of a redesigned extraction system, it is considered that the proposal would respond to and integrate with the character of the site and its surroundings and respect the local distinctiveness of its context. Consequently, the proposal is considered to accord with the requirements of Policy CS18 (Design) and CS19 (Historic Environment).

5.5 Impact on Neighbouring Residential Amenity

- 5.5.1 Core Strategy Policy CS18 states that all development will be expected to *“have an acceptable impact on the amenity of users and neighbours”*. Similarly, CS2 indicates that *“All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.”*
- 5.5.2 The application site is positioned on staggered crossroads and has no associated on-site parking. On the opposite side of the road junction to the premises (and therefore to the north west of the application site) is a Grade II Listed Building, 170 Yew Tree House, Old Hall Road. A beauty salon is located directly across the opposite side of Barker Lane. This is immediately to the north of the application site. To the north east of the application site, the premises shares a boundary with numbers 105, 107, 109, and 111 Barker Lane. To the east of the application site is no. 28 Barker

Lane whilst to the south the premises is adjoined to no. 193 Old Hall Road. To the south west of the application site and on the opposite side of the public highway, the premises shares a boundary with no. 152 Old Hall Road. Number 152 Old Hall Road is a semi-detached property which is adjoined to no. 55 Churston Road. This property is located west of the application site.

Impact on boundary sharing neighbours

5.5.3 Noise and Disturbance

In addition to the visual impact referred to above in Section 5.4, it is considered the proposed takeaway hours will result in an unacceptable impact on the neighbouring properties which are in a residential area.

5.5.4 The proposed take away is indicated to be open from 09:00 am until 23:00, Monday to Saturday. It is considered, as it was also considered by the previous case officer, that the comings and goings of pedestrians and particularly vehicles, late in to the evening could have a negative impact on the amenity of the neighbouring area.

5.5.5 Furthermore, the takeaway is proposed to be open two hours longer than the existing convenience store is open. This would extend any potential disturbance later into the evening, beyond that that is already experienced in the area. The existing convenience store does not have planning restrictions in relation to hours of operation and therefore could extend the hours of operation until later into the evening.

5.5.6 It should be noted despite the residential nature of the area, the premises the subject of this application adjoins an existing convenience store to the south. To the north, on the opposite side of Barker Lane, there is a beauty salon. Therefore, any impact of noise and disturbance typically associated with a take away on neighbouring amenity is considered to be minimised given the other businesses operating in the immediate vicinity. Notwithstanding this however, the proposed operating hours of the

take away are extended beyond the immediate surrounding business hours and therefore will create extended disturbance.

5.5.7 The supporting letter submitted by the agent with this application highlights that *“the reopening of the shop front windows as part of the takeaway development would give staff in the take away a better view of the forecourt to the shop and take away units than currently exists.”* This is recognised and considered to be a welcome design feature for surveillance purposes- this may prove to be beneficial given the late proposed opening hours of the planning application. The agent also indicates that the applicant will regularly patrol the frontage to ensure litter is collected up. Again, this is a welcome statement from the applicant. Beyond this however both issues raised cannot be controlled through the planning system.

5.5.8 It is accepted that the proposed takeaway would create additional disturbances to the residential area, typically through the increase of vehicles coming and going from the site. The increase in disturbances however is not considered to be more detrimentally harmful to the area than the existing, as well as potential, disturbances as a result of the convenience store.

5.5.8 Cooking odour

Due to the proposed change of use detailed within this application, it is important to consider any potential impacts from cooking odours. The “appliance schedule” submitted with the application details appliances relating to the preparation of and cooking of fish, chips and pizzas (i.e. Peeler, Pizza Oven, fish prep bench etc.).

5.5.9 The application also details the provision of a flue extraction system. Comments from the Environmental Health Officer have highlighted the need for specific types of extraction systems, according to the food being prepared. The consultation response from the EHO officer can be found below in Section 5.10.

5.5.10 It is considered that the details that are lacking for the EHO to fully comment could be provided through the use of an appropriately worded planning condition. This can be attached to

any approval of the planning application. In addition to the further information being provided, it is considered that the location of the proposed flue extraction system should be amended to be less visible from Old Hall Road, and in particular the Grade II Listed Building.

- 5.5.11 Subject to receiving further details of the proposed extraction system, it is not considered that the proposal would have any material adverse impacts on the neighbouring residential amenity through noise and disturbance, or odour. Accordingly, it is considered that the proposed change of use would not pose any serious adverse impacts on neighbouring amenity and would therefore accord with the provisions of CS8 and CS18 of the Chesterfield Borough Council: Local Plan 2011 – 2031.

5.6 Highway Safety

- 5.6.1 DCC Highways have been consulted in relation to this application and raised the following comments;

“It is noted that planning permission was given in February 2016 for a similar if not identical proposal.

In response to this previous application, the Highway Authority raised various issues and recommended that the proposal was refused on highway safety grounds. It is noted, however, that for whatever reason the Highways Authority’s response does not appear on your Authority’s web-site.

The Highway Authority sees no reason to change its previous stance and the comments on the earlier application are basically repeated below.

The premises has no associated on-site parking and it is situated on the junction of Old Hall Road with Barker Lane (one-way at this location). Old Hall Road is a classified road and is well used as a link with the town centre; it is also a bus route. The location is also in the vicinity of the staggered crossroads of Old Hall Road and Churston Road and there are Traffic Regulation Orders restricting parking in the vicinity of the junction.

Parking on street in the vicinity of the street is already at a premium due to the nature of the housing stock i.e. terraced properties with no on-site parking facilities.

In response to previous proposal for hot food takeaway this Authority considered that the proposals would be likely to increase demand for on-street parking where there is already considerable competition and would lead to vehicles performing awkward manoeuvres within a classified highway in the vicinity of the staggered crossroads to the detriment of highway safety. Development of the nature proposed would also increase the likelihood of vehicles waiting or being parked on sections of the carriage way that are currently subject to double yellow line parking restrictions, again a situation considered prejudicial to the safe operation of the highway. On this basis the proposals were considered open to highway objections.”

5.6.2 Officer comments:

The Local Planning Authority would have no control as to how customers travel to the proposed hot food takeaway. It is considered inevitable that customers will arrive via vehicle for reasons of convenience, contributing to the demand for on-street parking. It is noted the applicant intends to establish a delivery service however the LPA cannot control how many people utilise this service, or where delivery drivers park. Furthermore, the LPA would not have control over the management of such services.

5.6.3 The level of unrestricted parking in the immediate area is not considered to be significant as the entire staggered crossroads junction on which the site is located is double yellow lined. In addition, the restrictions continue a significant distance down Barker Lane which is a one way road and the availability of on-street parking on Old Hall Road is limited to one side of the road.

5.6.4 Notwithstanding the availability of on-street parking on Churston Road and along one side of Old Hall Road (albeit at a premium) by its very nature a hot food takeaway (use class A5) is likely to generate indiscriminate parking with a disregard to restrictions.

- 5.6.5 As suggested by the applicant, efforts can be made to remind visitors to the shop and takeaway to avoid parking on double yellow lines and the Police/parking enforcement can intervene where necessary. However, it is not considered that such actions will prevent an increase in indiscriminate parking as a result of the use of the premises in the manner proposed.
- 5.6.6 Taking into account the physical constraints presented by the sites location and the unambiguous comments received from the Highway Authority, it is considered that the use of the premises in the manner proposes would have a detrimental impact on the safe operation of the highway. Vehicles parked on the frontage of the premises, including on the pavement (which it is suggested will be more likely associated with a hot food outlet) will obstruct emerging visibility from the adjacent traffic junctions.
- 5.6.7 Furthermore, it is noted that the agent acting on behalf of the applicant details in the supporting letter the application site to be *“sustainable from a transportation perspective and therefore any perceived lack of off street parking should not be a barrier to the delivery of this business opportunity”*. The case officer understands the local bus provider, Stagecoach, provide a service that passes the application site however this service (no. 2 bus route) only runs once per hour with the last service running approximately 18:15 Monday – Saturday. There appears to be no Sunday service. It has also been noted by the Strategic Planning Team that Stagecoach have a policy not to allow hot food on buses. This is recognised to be variably enforced however some consideration must be afforded to this given the agent’s argument that the site is sustainable.
- 5.6.8 On the basis of the above, the proposal is considered to fail to accord with the requirements of Policy CS18 of the Local Plan: Core Strategy, in particular criteria (g) which expects developments to provide adequate and safe vehicle access and parking.

5.7 Environmental Services

5.7.1 The Environmental Services Team were consulted in respect of this application. The comments received from the Team are as follows:

5.7.2 *“I can see that the applicant has provided some information about the proposed extraction system, what I am unable to find from the information online is the sound output of the extraction system.*

The extraction system would need to be fitted with anti-vibration mounts and the odour control system would need to be suitable for the type of hot food takeaway. For example, fish and chips need a different odour control system compared to burgers/pizzas. The applicant will need to ensure that the most suitable extraction system is installed. This should be discussed with environmental health and approved prior to installation.”

5.7.3 Should the LPA be minded to approve this planning application, the requested information could be obtained from the applicant by the means of an appropriately worded planning condition.

5.8 Design Services

5.8.1 Finally, the Design Services Team were consulted in respect of this planning application. The response received is as follows:

5.8.2 *“The site is not shown to be at risk of flooding, according to the Environment Agency flood maps.*

Any amendments to existing drainage may require Building Control approval.”

5.8.3 This information will be attached as a note to any approved planning consent.

6.0 Representations

6.1 The application has been publicised by neighbour notification letters to boundary sharing neighbours, which were posted on 13th November 2019; deadline for responses being 4th December 2019.

A site notice was also displayed at the application site on 18th November 2019, deadline for responses being 9th December 2019.

- 6.2 As a result 6 individual representations have been received, a representation from a ward member, Cllr Keith Falconer, as well as one petition. The petition has 43 signatures on it, from 35 different addresses. Three of the signatures on the petition had also made individual representation.
- 6.3 Therefore a total number of 49 representations have been received from 38 different addresses. It should be noted that one representation was received by this LPA that did not identify an address. This representation has been included in the above quoted figures, as has the addition of the ward member's comments.
- 6.4 The representations received from the occupants of the below addresses comments have been summarised in the table below:

<u>Address</u>	<u>Representation summarised</u>
19 Churston Road	<ul style="list-style-type: none"> • Noise • Policy • Residential amenity • Traffic and highways • Social health and wellbeing concern arising from another food outlet and the likely impact on obesity within the borough of Chesterfield • Appearance of the flue on the street scene and character of the area • Detriment to the amenity of the local residents • Parking, road safety and highways • Disturbance and anti-social behaviour • Access to the proposed takeaway- appears to be no disabled access to the proposed takeaway • Health in relation to over consumption of takeaway food • Noise and odour of extraction system • Litter

207 Old Hall Road	<ul style="list-style-type: none"> • Noise • And highways • Visual reasons • Narrow roads, no parking, residential area, impact on property value • Groups gathering outside • Anti-social behaviour • Litter • Odour • Proximity to other hot food takeaways and restaurants at Chatsworth Road
199 Old Hall Road	<ul style="list-style-type: none"> • Smells and odours • Extraction system noise and location from business at 199 Old Hall Road • Litter and anti-social behaviour • Indiscriminate parking • Amenity for flat above the business at 199 Old Hall Road
107 Barker Lane	<ul style="list-style-type: none"> • Parking issues • Anti-social behaviour • Noise
101 Barker Lane	<ul style="list-style-type: none"> • Highway issues and parking
Local Resident	<ul style="list-style-type: none"> • Traffic levels on Old Hall Road
Ward member- Cllr Keith Falconer	<ul style="list-style-type: none"> • Road safety

6.5 The petition received in respect of this application objected to the proposed hot food takeaway on the basis of the following:

- Residential area
- No children in the area
- Previously approved shop on Ashgate Road which has had an impact on this local convenience store

- Impact to surrounding hot food takeaways on Chatsworth Road and Cuttholme Road
- Parking on Old Hall Road and Barker Lane
- Litter
- Anti-social behaviour
- Odour
- Cars driving up a one way street wrong way
- Noise

6.6 It is considered that objections received in respect of this planning application have been addressed in this report. Each consideration can be found in the relevant section:

- Concerns raised in relation to the principle of the development, please see **Section 5.3- Principle of development**
- Concerns raised in relation to the design and appearance of the development, please refer to **Section 5.4- Design and appearance of the proposal**
- Concerns raised in respect of impact on neighbouring residential amenity, please refer to **Section 5.5- Impact on neighbouring residential amenity**
- Concerns in respect of highway, please refer to **Section 5.6- Highway Safety**
- Concerns in respect of noise, odour and extraction, please see **Section 5.7- Environmental Services**

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
- 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 applicant has the right to appeal a refusal of planning permission

8.0 Statement of positive and proactive working with the 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 paragraph 38 of the National Planning Policy Framework (NPPF).

8.2 The proposed development conflicts with the principles of the NPPF and the relevant Development Plan policies for the reasons given in the report above.

8.3 The conflict with Development Plan policies has led the LPA to conclude the development does not fully meet the definitions of "sustainable development" having regard to local character and amenity and a presumption on the LPA to seek to approve the application is not considered to apply.

9.0 Conclusion

9.1 It is considered that the principle of the proposed hot food takeaway at the application site is contrary to the provisions of Policy CS16 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031, as a hot food takeaway is not considered to be a day to day need. In addition, the application has failed to satisfy the sequential assessment. When this is the case, the NPPF identifies an application should be refused. The proposal does not evidence functional links to an existing use at the application site, other than ownership, and therefore conflicts with CS2 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031. It is also considered that the proposal

would harm the safe operation of the local highway as a result of the lack of available and suitable parking facilities. As a result, the proposal conflicts with the requirements of policies CS18 (g) of the Core Strategy.

10.0 Recommendation

10.1 It is therefore recommended that the application be **REFUSED** for the following reason:

- 1 The proposal has failed to satisfy the sequential assessment and therefore does not comply with the requirements of the NPPF. In the opinion of the Local Planning Authority, the proposed hot food takeaway is not considered to be a day to day need and therefore conflicts with the provisions of Policy CS16 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031. The application does not make functional links to an existing use at the application site and therefore does not comply with CS2 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031.
2. The development is contrary to the best interests of highway safety. The proposed development would increase the likelihood of indiscriminate vehicle parking on the public highway including the extent limited by double yellow line parking restrictions and also on the pavements. This is considered to be harmful to the safe operation of the highway at a road traffic junction and where visibility available will be compromised. The proposal therefore fails to accord with the requirements of Policy CS18 (g) of the Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031, which expects developments to provide adequate and safe vehicle access and parking. The development would conflict with the wider requirements of the NPPF.



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COMMITTEE/SUB	Planning Committee
DATE OF MEETING	17 th February 2020
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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Committee List - Chesterfield

Reference Number	Site Address	Description Of Work	Decision Date	Decision Type
19/06481/DCC	The Spinney Woodlands Brimington Chesterfield S43 1BE	Replacement of timber cladding	16/12/2019 A	
19/06511/DEXFP	6 Kingsmede Avenue Walton Chesterfield S40 3EG	Single Storey Side Extension	18/12/2019 A	
19/06714/DEXFP	1 Manknell Road Whittington Moor Chesterfield S41 8LZ	Two storey rear extension	19/12/2019 A	
19/06836/DEXFP	35 Herriot Drive Chesterfield S40 2UR	Internal wall removal between kitchen and dining room	02/01/2020 A	
19/06830/DEXFP	230 Lockoford Lane Tapton Chesterfield S41 0TQ	Single Storey Extension	02/01/2020 C	
19/06519/OTHFP	10 The Green Hasland Chesterfield S41 0LJ	Staff Room Extension	03/01/2020 A	
19/06510/DEXFP	44 Holme Park Avenue Upper Newbold Chesterfield S41 8XB	Removal of internal walls to create a kitchen/diner. Replacing existing kitchen window with french doors and existing utility door with window	07/01/2020 A	
19/06637/DEXFP	244 Brimington Road Tapton Chesterfield S41 0TB	First Floor Extension Over Existing Ground Floor Extension	10/01/2020 A	
20/00022/DEXFP	31 Elkstone Road Holme Hall Chesterfield S40 4UT	Rear Extension	10/01/2020 A	
20/00189/DEXFP	21 Stuart Close Tapton Chesterfield S41 0SW	Single storey side extension	15/01/2020 A	
19/06614/DEXFP	73 Coniston Road Newbold Chesterfield S41 8JE	Ground Floor Side Extension	23/01/2020 A	
19/05134/DEXFP	3 Raneld Mount Walton Chesterfield S40 3RE	Single Storey Extension and Alterations to create larger Kitchen and living space	28/01/2020 A	

Reference Number	Site Address	Description Of Work	Decision Date	Decision Type
19/04591/DEXFP	255 Walton RoadWaltonChesterfieldS40 3BT	Extension to side and rear of house to form sitting room and kitchen at ground floor, bathroom at first floor	28/01/2020 A	
20/00460/DEXFP	45 Peterdale RoadBrimingtonChesterfieldS43 1JA	Construction of an Attached Garage	29/01/2020 A	
19/06371/DEXFP	106 Middlecroft RoadStaveleyChesterfieldS43 3NG	Side and Front Extension	29/01/2020 A	
19/06727/DEXFP	122 Mansfield RoadHaslandChesterfieldS41 0JQ	Front and rear extension, loft conversion and internal alterations	30/01/2020 A	
20/00118/DEXFP	41 Lichfield RoadWaltonChesterfieldS40 3EZ	Side extension including garage and installation of two dormer roofs	30/01/2020 C	
19/04072/DCC	Peter Webster CentreSheffield RoadWhittington MoorChesterfieldDerbyshireS41 8LQ	Removal of existing single glazed timber windows, to be replaced with double glazed PVCu, new steel lintels to be installed, as previous phase. External boundary wall to be rebuilt.	30/01/2020 C	
20/00414/DEXFP	46 Highfield LaneNewboldChesterfieldS41 8AU	Removal of internal wall in kitchen	30/01/2020 A	
20/00506/DCC	The S E N Support Services CentreSchool RoadWhittington MoorChesterfieldS41 8LJ	Window refurbishment and replacement at Pupil Referral Unit	30/01/2020 C	
19/06770/DEXPI	201 Langer LaneBirdholmeChesterfieldDerbyshireS40 2JW	Single Storey Extension and associated internal works and external landscaping.	31/01/2020 A	

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	17 th February 2020
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	<p>Items approved by Development Management and Conservation Manager under the following Delegation references:-</p> <p>Planning Applications P020D, P200D to P250D, P270D to P320D, P350D to P370D, P390D, P420D to P440D</p> <p>Agricultural and Telecommunications P330D and P340D</p>
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 FileNo	Ward	Proposal	Decision	Decision Date
CHE/19/00466/FUL 0153	St Leonards	Installation of a new carpark development to incorporate 25 spaces, works to include the removal of some existing vegetation and trees At Sports Facility At Whitebank Close Hasland Derbyshire For Chesterfield Borough Council	CP	29/01/2020
CHE/19/00520/FUL 5040	Rother	Erection of a new dwelling - revised plans received 15/10/2019, 28/10/2019 and 10/12/2019 At Land 211 Langer Lane Birdholme Derbyshire S40 2JW For Mrs Hazel Shedd	CP	20/01/2020
CHE/19/00563/RET 507	St Helens	Retrospective consent for change of use of cafe/hairdressing area to extension to bar/waiting At Morgans 1 Sheffield Road Stonegravels Chesterfield Derbyshire S40 1LL For Lombardis	UP	29/01/2020
CHE/19/00649/FUL 4592	Brockwell	Erection of a single dwelling - revised drawings received 28 11 2019 and 12 12 2019 At 35 Ashgate Road Chesterfield Derbyshire S40 4AG For T.G. Beighton	CP	17/01/2020

CHE/19/00666/LBC	Barrow Hill And New Whittington	Listed Building Consent for replacement timber windows to ground and first floor levels. At 21 Station Road Barrow Hill Chesterfield S43 2PG For Cavendish Learning Trust	CP	23/01/2020
768				
CHE/19/00683/ADV	St Leonards	5 illuminated flexface box signs and 1 illuminated welcome sign At Spire Walk Business Park, Unit 2 Spire Walk Chesterfield S40 2WG For Dunelm	CP	17/01/2020
CHE/19/00684/FUL	Loundsley Green	Conversion of attached garage to bedroom including en-suite. Erection of single storey extension to front of property to link garage to house. At 22 Purbeck Avenue Brockwell Chesterfield S40 4NP For Mr Richard Pearce	CP	28/01/2020
131				
CHE/19/00704/REM1		West Variation of condition 2 of CHE/19/00077/FUL (Two storey side and rear extension) to revise the approved plans in order to reduce the two storey rear element to single storey and alter the side elevation At 31 Somersall Park Road Chesterfield Derbyshire S40 3LD For Mr Jonathan Wood	CP	24/01/2020
CHE/19/00716/FUL	Barrow Hill And New Whittington	Two storey rear extension for the provision of disability adaptations At 53 Brearley Street Old Whittington Chesterfield S41 9LN For Guinness Partnership	CP	20/01/2020
2150				

CHE/19/00723/FUL	West	Single storey construction for utility / wc CP and conversion of existing garage to bedroom	15/01/2020
1388		At 7 Ardsley Road Ashgate Chesterfield S40 4DG For Mr Mike Watkinson	
CHE/19/00728/RET	St Helens	Retention of rear extension to no 18 c CP render to rear elevation of no's 18 A B C and rebuilding of boundry wall to rear yard at 18 A B C	16/01/2020
		At 18ABC Wharf Lane Chesterfield Derbyshire S41 7NE For Mr Milen Kay	
CHE/19/00732/FUL	St Leonards	Replacement of rotten timber windows CP with aluminium double glazed windows.	20/01/2020
229		At Markham House Markham Road Chesterfield 40 1TG	
S		For Lodge Farm Estates	
CHE/19/00734/ADV	Holmebrook	1 Wickes Building sign, (part illum.)1 UP part illuminated Wickes Flexface sign, 4 product letters, 1 welcome sign, 2 post signs and 1 set of 2 poster frames.	21/01/2020
693 1200		At Wheatbridge Retail Park, Wickes Building Supplies Ltd Wheatbridge Road Chesterfield S40 2AB For Property Management	
CHE/19/00736/FUL	Brockwell	Two storey side and rear extension CP	22/01/2020

At
30 Hawksley Avenue
Chesterfield
S40 4TW
For Mr Matthew Lees

CHE/19/00738/FUL Walton Re-submission of CHE/19/00571/FUL - CP 20/01/2020
for erection of a side extension

5576 At
6 Brincliffe Close
Walton
Derbyshire
S40 3DU
For Mr and Mrs Shepley

CHE/19/00743/FUL West Two storey rear and side extension to CP 29/01/2020
existing property. Demolition of existing
detached garage and erection of a
new detached garage

At
4 Brookfield Avenue
Chesterfield
S40 3NX
For Mr Hughes

CHE/19/00744/FUL Hasland Erection of a staffroom to existing REF 29/01/2020
beauty salon.

At
10 The Green
Hasland
Chesterfield
Derbyshire
S41 0LJ
For Mr Cutts

CHE/19/00745/FUL West Two storey rear extension (revised CP 27/01/2020
drawing received 23.01.2020 showing
privacy screen)

3528 At
27 Ashgate Avenue
Ashgate
Chesterfield
Derbyshire
S40 1JB
For Mr Lee Pitchley

CHE/19/00746/ADV St Leonards Installation of 5 new digital freestanding CP 21/01/2020

signs and 1 15" digital booth screen.

1599 1601		At McDonalds Restaurant Ltd Unit 5 Alma Leisure Park Derby Road Chesterfield Derbyshire S40 2EZ For McDonald's Restaurants Ltd		
CHE/19/00748/FUL	Barrow Hill And New Whittington	Single storey side extension. At 30 Highland Road New Whittington Chesterfield S43 2EZ For Mr and Mrs David Millington	CP	03/02/2020
136 136				
CHE/19/00749/DOC	Dunston	Discharge of condition 5 (street layout) of CHE/18/00805/REM - Reserved Matters for the erection of 200 dwellings and associated landscaping At Land To The West Of Dunston Lane Newbold Derbyshire For William Davis Ltd	DPC	17/01/2020
218				
CHE/19/00750/FUL	Walton	Proposed 2 storey extension to side of house At 20 Tunstall Way Walton Derbyshire S40 2RH For Ms Danielle Brewin	CP	27/01/2020
85				
CHE/19/00753/FUL	Dunston	Change of use form vacant industrial land for use as vehicle storage compound along with erection of security fencing, lighting and CCTV and portacabin office and welfare facilities. At Plots 6 7A and 7B Sheepbridge Lane Sheepbridge For Perrys East Midlands Limited	CP	28/01/2020
208				
CHE/19/00754/DOC	Hollingwood	Discharge of condition 3 (materials) of		31/01/2020

And Inkersall CHE/16/00744/FUL - proposed
disabled shower room extension

16
At
50 Avondale Road
Inkersall
Derbyshire
S43 3EQ
For Mr and Mrs Pearson

CHE/19/00761/FUL St Helens Provision of disability adaptations CP 24/01/2020
including alteration of ground levels to
provide concrete ramping with
handrailing to the front of the property.
and Internal alterations.

4585
At
19 Edinburgh Road
Newbold
Derbyshire
S41 7HF
For Mr S Morris

CHE/19/00764/FUL West 2 storey side extension and 2 storey CP 03/02/2020
rear extension and alterations to
entrance.

77
At
3 Westbrook Drive
Chesterfield
S40 3PQ
For
Mr and Mrs Bricknell

CHE/19/00765/LBC Barrow Hill Removal of internal wall between CP 03/02/2020
And New kitchen and dining room to create open
Whittington plan space for new kitchen area.

504
At
19 Brearley Hall
Woodmere Drive
Old Whittington
Chesterfield
S41 9TA
For Mrs Lucie Wainwright

CHE/19/00770/LBC St Leonards Installation of new light fitting on CP 24/01/2020
Parkers Yard by extending existing
MICC wiring along external wall

5784
At
Winding Wheel
13 Holywell Street
Chesterfield
S41 7SA
For Chesterfield Borough Council

CHE/19/00776/DOC	Barrow Hill And New Whittington	Discharge of planning conditions 6 (storage of plant) 7 (construction management plan) ,8 (Estate Street Phasing plan),11 (discharge of water on highway) and 14 (materials) of CHE/19/00163 - Environmental improvements to the southern area of London Boroughs Estate, Barrow Hill. The improvements will include resurfacing road/parking courts, paving, street lighting and boundary treatments within the area identified as Phase 2	DPC	03/02/2020
876		At London Borough Estate Barrow Hill Chesterfield Derbyshire For Chesterfield Borough Council		
CHE/19/00788/DOC	Brockwell	Discharge condition 4 of CHE/18/00530/FUL - removal of section of front boundary wall to widen driveway entrance		23/01/2020
2334		At 31 Spire Heights Chesterfield Derbyshire S40 4TG For Mr Neil Duffin		
CHE/19/00802/DOC	Moor	Discharge condition 3 of CHE18/00133/FUL		31/01/2020
1354		At 196 Highfield Lane Newbold Derbyshire S41 8BA For Mr M Clowes		
CHE/19/00806/TPO	St Helens	Ash (T1) - pollard to points shown on attached photos. Lime (T2) - crown lift to 2.8 m over pavement and road, including all epicormic.	SC	23/01/2020
		At Holy Trinity Rectory 31 Newbold Road Newbold S41 7PG For Derby Diocesan Board Of Finance Ltd		

CHE/19/00807/CA	St Helens	Self set group (43) - remove/fell At Holy Trinity Rectory 31 Newbold Road Newbold Derbyshire S41 7PG For Derby Diocesan Board Of Finance Ltd	UP	23/01/2020
CHE/20/00003/TPD	Brimington South	Kitchen extension to the rear and side elevation, mono pitch roof, cavity wall construction of 100mm, internal blockwork, 100mm insulation and 100mm external facing brickwork to match the existing dwelling. Width 2450 mm, length 3400 mm, eaves height 2500 mm. At 14 Douglas Road Tapton Derbyshire S41 0UD For Mr David Knight	PANRZ	03/02/2020
CHE/20/00004/TPO	Hollingwood And Inkersall	G1, Cherry tree - 30% crown reduction of overall tree, approximately 5 metres. At 10 Booker Close Inkersall Derbyshire S43 3WA For Mrs Michelle Wragg	REF	28/01/2020
1702				
CHE/20/00015/CPO	Loundsley Green	Proposed reception office and secure entrance lobby and internal alterations to form new group room. At Brockwell Junior School Purbeck Avenue Brockwell Chesterfield S40 4NP For Mr David Massingham	OC	29/01/2020

CHE/20/00019/TPO West		Beech (TGI)Reduce Height 6 Metres Reduce Sides 2 Metres At 396 Old Road Chesterfield Derbyshire S40 3QF	CP	03/02/2020
CHE/20/00025/CA	Brimington South	Oak T3 - fell because of excessive shading and low amenity value. Replant with one standard ash in same position. At 17 Grove Farm Close Brimington Chesterfield S43 1QA For Countryside Services	UP	24/01/2020
CHE/20/00027/TPO West		T1- Maple and T2 Cherry Crown lift both trees At 16 Glenthorne Close Chesterfield Derbyshire S40 3AR For Mr Peter Allen	CP	23/01/2020
CHE/20/00053/NMA	Hollingwood And Inkersall	Removal of single garage to facilitate additional double garage to plot 20 - access and boundaries amended to suit At Land To South Of Poplar Farm Rectory Road Duckmanton Derbyshire For Woodall Homes	UP	03/02/2020

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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COMMITTEE/SUB	Planning Committee
DATE OF MEETING	17 th February 2020
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**

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<u>CODE NO</u>	<u>DESCRIPTION OF PROPOSAL</u>	<u>TERMS OF DECISION</u>
CHE/20/00027/TPO TPO 4901.09 23/01/20	The pruning of two trees, one Cherry and one Maple within G2 on the order map for Mr Allen of 16 Glenthorne Close. The vehicles are allegedly catching the trees along Quarry Lane.	Consent is granted to the crown lifting and the pruning of the side branches that overhang Quarry Lane pruning back to suitable replacement branches or the main stem.
CHE/19/00806/TPO TPO 4901.19 23/01/20	The pruning of two trees, one Lime and one Ash within G1 on the order map for the Diocesan of Finance at The Holy Trinity Rectory, Newbold Road.	Consent is removed to the heavy pollarding of one Ash tree as there is no justification for the works and the tree was found to be in a health condition with no visible defects. Consent is granted to crown lift one Lime tree by 2.8 metres.
CHE/20/00004/TPO TPO 4901.233 28/01/20	The pruning of one Cherry tree within G1 on the order map for Mrs Wragg of 10 Booker Close, Inkersall. The tree is allegedly blocking out light and there are fears branches may fall.	Consent is refused to the crown reduction of the Cherry tree by 5 metres. There is no justification for the works and no tree report has been submitted with the application to support the works on the grounds that branches may fall. It has been recommended to the applicant that they submit a further application to crown thin and crown lift the tree to remove low branches and dead wood and allow light to

		filter through the crown rather than destroying its natural shape by heavy lopping.
CHE/20/00019/TPO TPO 4901.12 03/02/20	The pruning of 3 Beech tree within G2 on the order map for Mr Jackson of 396 Old Road, Brampton.	Consent is granted to an all round crown reduction of 3 Beech trees within G2 on the Order map pruning back to just below previous reduction points and leaving a well-balanced crown.

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/19/00807/CA The felling of a small group of self-set Ash trees at the Holy Trinity Rectory, Newbold Road.	The trees are within the Abercrombie Street Conservation Area and the applicant wishes to fell the trees as they are close to the Rectory.	Agreement to the felling of a small group of self-set trees. The fellings will have no adverse effect on the amenity value of the area.	23/01/20
CHE/20/00025/CA The crown reduction of a one Sycamore tree to the frontage of 17 Grove Farm Close, Brimington for Derbyshire County Council Highways.	The tree is within the Brimington Conservation Area and the applicant wishes to reduce the tree due to the condition of the main stem at the base and long term retention of the tree.	Agreement to the crown reduction of one Sycamore tree. The crown reduction will have no adverse effect on the amenity value of the area.	24/01/20

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AGENDA ITEM

APPEALS REPORT

MEETING: PLANNING COMMITTEE

DATE: 17th February 2020

REPORT BY: DEVELOPMENT MANAGEMENT AND
CONSERVATION MANAGER

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS

<u>TITLE</u>	<u>LOCATION</u>
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>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>
2/208	Old Whittington ward	Nikki Cooper	CHE/19/00389/COU – Change of Use from B8 warehouse to D2 gym at unit 18 Broombank Park Refusal	Officer delegation	28/01/20	Written Reps (HAS)	

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FOR PUBLICATION Agenda Item 9

ENFORCEMENT REPORT

MEETING: PLANNING COMMITTEE

DATE: 17TH FEBRUARY 2020

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

Enforcements currently Authorised: 9

ENFORCEMENT REPORT

07 February 2020

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
Breach of Condition Notice			Total currently Authorised: 1 Authorised to Issue Average: days							
York Street	2	23/09/19 137	balcony, canopy and french door	17/00800/FUL				Instructed. About to be issued.	<input type="checkbox"/> 03/12/19	Ha
Enforcement Notice			Total currently Authorised: 7 Authorised to Issue Average: 205 days							
Markham Road	Markham House	18/02/08 4,372	storage of commercial vehicles		20/03/08 31	18/04/08 4312	20/10/08 4127	Complied by 2009. Unauthorised use has started again. Prosecute - awaiting instructions.	<input type="checkbox"/> 14/11/19	HI
Pottery Lane West	10	06/01/20 32	two unauthorised metal structures.		06/02/20 31	09/03/20 -31	09/04/20 -62	Initially action against one structure approved 12/11/19, then second structure installed and further report on both structures approved 06/01/20. Issued.	<input checked="" type="checkbox"/> 06/02/20	Mo

Details at 07 February 2020

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
Station Lane	03/04/18 675	importation of materials - creation of hard surfacing		03/07/18 91	08/08/18 548	08/08/19 183	Application for partial retention (CHE/19/00242/FUL) now approved subject to S106 agreement for wildlife habitat area (draft received)	<input type="checkbox"/> 04/11/19	BHW
Station Lane	03/04/18 675	importation of materials - industrial use		03/07/18 91	08/08/18 548	08/08/19 183	Application for partial retention (CHE/19/00242/FUL) now approved subject to S106 agreement for wildlife habitat area. Signed agreement received.	<input type="checkbox"/> 06/02/20	BHW

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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 <i>1,019</i>	unauthorised extension	16/00648	14/06/19 <i>781</i>	22/07/19 <i>200</i>	22/01/20 <i>16</i>	Application for retention dismissed on appeal. Application for changes to extension CHE/17/00827/FUL approved, but unauthorised extension not removed. Issued, requiring demolition of unauthorised part and to make good. Not complied.	<input checked="" type="checkbox"/> <i>24/06/19</i>	SH
Walton Works		27/06/16 <i>1,320</i>	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. Operator now vacated premises. No further action necessary	<input checked="" type="checkbox"/> <i>27/01/20</i>	Wa

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
York Street	2	09/10/17 <small>851</small>	conversion and extension of roof space	17/00800/FUL				Flat conversion approved 03/04/18, conditions requiring removal of balcony, canopy, french windows appealed, but dismissed 18/12/18. Not complied with conditions. BCN authorised - see separate entry.	<input type="checkbox"/> <small>19/12/18</small>	Ha

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Stop Notice

Stop Notice		Total currently Authorised: 1		Authorised to Issue Average: days	
Walton Works	27/06/16 1,320	use for war and horror style games of game play		See notes for Enforcement Notice. Operator now vacated premises. No further action necessary.	<input checked="" type="checkbox"/> 27/01/20

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

SJP - single justice procedure: prosecutions dealt with by the Magistrates Court on paper without a hearing in open court.

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