



Please ask for Liz Athorn
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The Chair and Members of Planning
Committee

Councillors Holmes and Thornton –
Site Visit 1

3 November 2023

Councillor Jacobs – Site Visit 2

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on MONDAY, 13 NOVEMBER 2023 at 1.00 pm in Committee Room 1, 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 Reception at 11.05 am. Ward members wishing to be present should attend on site as indicated below:-

- | | | |
|----|---------|-----------------------------------------------------------|
| 1. | 11.30am | Cross London Street, New Whittington,
CHE/23/00284/FUL |
| 2. | 11.45am | Handley Wood Farm, Whittington Road,
CHE/23/00385/FUL |

Members are reminded that only those attending on site will be eligible to take part in the debate and make a decision on these items, unless a reasonable adjustment is in place by prior arrangement. 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.

A reasonable adjustment meeting will take place at 10.35am in Committee Room 1 for those not able to attend the site visits.

Ward members are invited to attend on site and should confirm their attendance by contacting Liz Athorn on tel. 01246 959612 or via e-mail: liz.athorn@chesterfield.gov.uk by 9.00 a.m. on Monday 13th November 2023. If you do not confirm your attendance, it will be assumed that you will not be attending on site.

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

1. Apologies for Absence
2. Declarations of Members' and Officers' Interests Relating to Items on the Agenda
3. Minutes of Planning Committee (Pages 5 - 22)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 23 - 66)
5. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 67 - 76)
6. Applications to Fell or Prune Trees (P620D) (Pages 77 - 82)
7. Appeals Report (P000) (Pages 83 - 86)
8. Enforcement Report (P410) (Pages 87 - 92)

9. Appeal Decision - 7 Ashcroft Drive, Old Whittington (Pages 93 - 96)
10. Appeal Decision - Tipton Business Park (Pages 97 - 110)

Yours sincerely,

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

Head of Regulatory Law and Monitoring Officer

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PLANNING COMMITTEE**Monday, 23rd October, 2023**

Present:-

Councillor Callan (Chair)

Councillors	B Bingham	Councillors	Falconer
	J Bingham		Miles
	Brady		Stone
	Brittain		Yates
	Davenport		

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

CHE/22/00692/RET – Retrospective application for ground works, provision of fencing and change of use on land to the North East of the Golf Driving Range, Whittington Road, Barrow Hill, Chesterfield.

Councillors J Bingham, Brady, Brittain, Callan, Davenport, Falconer, Miles, Stone and Yates.

CHE/23/00315/FUL - Detached 2 bedroom dwelling on land at 43-45 Whittington Hill, Old Whittington, Chesterfield for Mr M Boot.

Councillors J Bingham, Brady, Brittain, Callan, Davenport, Falconer, Miles, Stone and Yates.

CHE/23/00445/FUL - Placement of a container to be used as a bar on match days and perimeter fencing at SMH Group Stadium, 1866 Sheffield Road, Whittington Moor, Chesterfield, Derbyshire, S41 8NZ for Mr Santiago Garcia-Perez.

Councillors J Bingham, Brady, Brittain, Callan, Davenport, Falconer, Miles, Stone and Yates.

Councillor B Bingham was unable to attend on site and received relevant site information by other means as a reasonable adjustment.

*Matters dealt with under the Delegation Scheme

63 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Caulfield and Ridgway.

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

CHE/23/00445/FUL - Placement of a container to be used as a bar on match days and perimeter fencing at SMH Group Stadium, 1866 Sheffield Road, Whittington Moor, chesterfield, Derbyshire, S41 8NZ for Mr Santiago Garcia-Perez.

Councillor Brady declared an interest in this item as Chesterfield FC Community Trust is one of the charities supported in his capacity as Mayor.

CHE/23/00315/FUL - Detached 2 bedroom dwelling on land at 43-45 Whittington Hill, Old Whittington, Chesterfield for Mr M Boot.

Paul Staniforth declared an interest in this item due to knowing a neighbour making representations on the proposal.

65 MINUTES OF PLANNING COMMITTEE

RESOLVED - That the Minutes of the meeting of the Planning Committee held on 2nd October, 2023 be signed by the Chair as a true record.

66 APPLICATIONS FOR PLANNING PERMISSION - PLANS DETERMINED BY THE COMMITTEE

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

Councillor Brady declared an interest in this item and left the meeting at this point.

CHE/23/00445/FUL - Placement of a container to be used as a bar on match days and perimeter fencing at SMH Group Stadium, 1866 Sheffield

Road, Whittington Moor, Chesterfield, Derbyshire, S41 8NZ for Mr Santiago Garcia-Perez.

In accordance with Minute No. 299 (2001/2002) Mr Santiago Garcia-Perez (applicant) addressed the meeting.

***RESOLVED**

That the officer recommendation not be upheld and the application be approved subject to the following conditions:-

1. The development hereby approved is for a temporary period expiring on 31st May 2026. On or before that date the site shall have been cleared of the container and all equipment, materials and associated paraphernalia and restored to its former condition.
2. The development hereby approved shall only be carried out in full accordance with the approved plans and drawings with the exception of any specified conditions, pending listed building consent and approved non-material amendment:
 - Existing Site plan 7518-010 rev 01
 - Proposed Site Plan 7518-100 rev 03
 - Container bar details 7518-101 rev 02
 - Site Location Plan 7518-001 rev 01
3. Prior to the container bar becoming operational, a Management Plan shall be submitted to the Council for approval in writing. The Management Plan shall include detail and arrangements in place for when the container is not being used and concerning:
 - Tables/chairs
 - barriers
 - additional lighting
 - Waste management
 - Toilet facilities

Only the detail agreed in writing shall be implemented as part of the development.

Councillor Brady rejoined the meeting at this point.

Paul Staniforth declared an interest in this item and left the meeting at this point.

CHE/23/00315/FUL - Detached 2 bedroom dwelling on land at 43-45 Whittington Hill, Old Whittington, Chesterfield for Mr M Boot.

***RESOLVED**

A. That the officer recommendation be upheld and the application be approved subject to the following conditions and a CIL liability notice be issued as per section 6.6 of the Officer's Report:-

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 and documents (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
 - WAL-23-20-01 Site Location Plan
 - WAL-23-20-02A Proposed Floor Plans
 - WAL-23-20-03A Proposed Site Plan
 - WAL-23-20-04 Proposed Elevations
 - WAL-23-20-05 Existing and Proposed Site Sections
 - WAL-23-20-06 Existing Site Plan
 - WAL-23-20-07 Typical Fence Elevation
3. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time 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.
4. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

5. Prior to the occupation of the development details of a privacy screen for the western side of the patio area shall be submitted to and approved in writing by the Local Planning Authority. The approved privacy screen shall be installed in accordance with the approved plans prior to the occupation of the development and thereafter be retained and maintained throughout the life of the development.
6. No development shall commence until:
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative K guidance.

7. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
8. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
9. Before the ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.

10. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 2015 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.
11. No development above floor-slab/D.P.C level shall take place until A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
 - a) Description and location of features to be created, planted, enhanced and managed.
 - b) Aims and objectives of management.
 - c) Appropriate management methods and practices to achieve aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
 - f) Details of the body or organisation responsible for implementation of the plan.
 - g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.
 - h) Details of internal bird and bat boxes.

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

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

13. All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties. The applicant shall submit details of all the lights they intend to use as part of this development and shall seek written approval from the local planning authority prior to the installation of lighting on site.
 14. Prior to the occupation of the development hereby approved, the access and parking facilities shown on drawing "WAL-23-20-03A" shall be provided and thereafter shall be retained permanently for domestic car parking unless otherwise agreed in writing by the Local Planning Authority.
 15. The boundary fence treatment on the eastern site boundary shall not exceed 0.6m in height relative to the carriageway level for the first 2m into the site measured from the back of the footway/highway boundary.
- B. That a CIL liability notice be issued for £4,191 as per section 6.6 of the officer's report.

Paul Staniforth rejoined the meeting at this point.

67 **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/22/00135/FUL	Change of use from scrub/highway verge to create additional parking for adjacent business (revised drawings received 21.09.2022) at Brimington Road North Industrial Park, Unit 4 Brimington Road North, Chesterfield S41 9AJ for Stoneacre Motor Group
CHE/22/00568/HH	High hedge complaint at 279 Handley Road, New Whittington S43 2ES for Ms Jonquil Knight

- CHE/23/00246/FUL Construction of new foul water drainage from Dunston Hall to mains connection on Dunston Road at Dunston Hall, Dunston Road, Chesterfield S41 9RL for Dunston Hall Leisure Ltd
- CHE/23/00300/FUL Demolition of garage and erection of a side and rear extension with rear dormers at 74 Manor Road, Brimington, Chesterfield S43 1NN for Mr Steven Smith
- CHE/23/00318/FUL Two storey side and rear extension at Russell House, 16 Gladstone Road, Chesterfield S40 4TE For Mr and Mrs Hawgood
- CHE/23/00345/FUL Construction of a detached dwelling house and carport with associated boundary treatments at Land Adjacent 392 Ashgate Road, Chesterfield S40 4DD for Mr James Wright
- CHE/23/00365/REM Variation of condition 2 (Approved plans) of application CHE/22/00680/FUL- Demolition of existing buildings and erection of a self-storage facility (Unit 1) including office use (Class E(g)(i)) of 186 sqm and two employment units comprising Unit 2 Class E (g)(ii)/E (g)(iii) & B8 and Unit 3 Class E(g) & B8 and associated parking, servicing areas and landscaping at Former Simply Gym, Sheffield Road, Whittington Moor, Chesterfield S41 8LF for McCarthy's Storage World (Chesterfield) Ltd
- CHE/23/00416/FUL Proposed dormer windows and roof canopy with porch to the front elevation. Re-submission of CHE/22/00399/FUL at 82 Storrs Road, Chesterfield S40 3QB for Mr Max Unwin
- CHE/23/00435/FUL Alterations to frontage levels to form driveway at 18 Brooklyn Drive, Brockwell, Chesterfield S40 4BB for Mr James Marshall

- CHE/23/00437/ADV Installation of replacement illuminated and non-illuminated signs to the exterior of the building at Mecca Bingo, Foljambe Road, Chesterfield S40 1NJ for Mecca Bingo
- CHE/23/00458/FUL Remove concrete panels on 3 external walls and replace with facing brickwork at 99 Hady Lane, Hady, Chesterfield S41 0DH for Walker Brothers Investments
- CHE/23/00464/FUL Single storey rear extension at 45 Broomfield Avenue, Hasland, Chesterfield S41 0LU for Mr Steve Corbett
- CHE/23/00465/FUL Construction of masonry steps & handrail to front of property and car hardstanding at 16 Sudbury Close, Holme Hall, Chesterfield S40 4RS for Derbyshire County Council, Disabled Design Team
- CHE/23/00470/LBC Replacement of 4 windows with like for like single glazed sash windows at 8 Church Street North, Old Whittington, Chesterfield S41 9QW for Miss Kate Witham
- CHE/23/00546/TPO T22- Sweet Chestnut- Crown lift by maximum of 2.5m from ground level pruning back to suitable replacement branches, leaving a well-balanced crown. Reduction of branches growing towards the conservatory to give a 1m clearance from the structure pruning back to suitable replacement branches. Removal of damaged or dead branches and removal of any epicormic growth at The Laurels, 2 Park Hall Gardens, Walton, Chesterfield S42 7NQ for J.E Kemp
- CHE/23/00558/TPO T2 & T3 (Popular) - re-pollarding to reduce the shade cast by the trees and to keep the trees to a suitable size for their environment. T4 - T10 (Small leaved limes) - re-pollarding same as above T11 & T12 (Beech) - Crown lift the lower branches to increase the clearance between the

ground and the crown. We wish to lift the crown of the 2 trees to a height of no more than 3 metres. This is to reduce the shade cast by the trees and to keep them to a suitable size for their environment at Hady Meadows, 73A Hady Hill, Hady, Chesterfield S41 0EE for Mrs Justine Fletcher

- CHE/23/00559/TPO T1 - 4 Lime trees adjacent to the front boundary of the property. Re-pollard to approximately 1m above the previous height at 8 Oakfield Avenue, Chesterfield S40 3LE for Mr Alan Redfern
- CHE/23/00562/TPO T2 Elm in green space adjacent to 8 Kentmere Way - elm tree is dead and requires removal at Green Space Land to the Rear Of 8 Kentmere Way, Middlecroft, Staveley, Chesterfield S43 3TW for Chesterfield Borough Council
- CHE/23/00567/TPO Copper Beech - crown thin by 20% to include shortening of branches over the garage to allow more light at 33 Oakfield Avenue, Chesterfield S40 3LE for Anne Slyn
- CHE/23/00569/TPO Crown reduction to a willow tree in the grounds of the property at Hawkinge House, 30 Newbold Back Lane, Chesterfield S40 4EY for Mr Keith Davidson
- CHE/23/00581/TPO Remove branches within 1.5m of property at Land Adjacent 392 Ashgate Road, Chesterfield S40 4DD for Mr Richard Crampton
- CHE/23/00593/TPO Ash tree - One limb has failed and landed in neighbour's garden. 2nd Limb has a large crack all the way through - to cut back to just below the crack and reshape by 25% at 11 Woodland Walk, Holme Hall, Chesterfield S40 4YB for Mrs Samantha Meadows
- CHE/23/00602/TPO T1 and T2 Oak- Prune back encroaching oak crowns to provide 2 to 3m clearance from

adjacent property and Remove deadwood overhanging highway (40mm+ diameter) at Newbridge Lane, Brimington, Chesterfield for Derbyshire County Council

- CHE/23/00608/TPO Oak T117 - Remove epicormic growth, remove back branches from touching house + garage to new growing tips, reduce crown by 25% leaving well balanced crown. Due to excessive shading branches touching house + roof at Pynot Fields, 19B Somersall Lane, Somersall S40 3LA for John Salway
- (b) Refusals
- CHE/23/00319/FUL Detached garage and boundary walling with gate to the front elevation at 6 Hartside Close, Loundsley Green, Chesterfield S40 4LB for Mr Paul Wilson
- CHE/23/00388/FUL Single storey entrance porch to the front of the dwelling at 26 Baden Powell Avenue, Chesterfield S40 2RW for Mr Michael Jones
- CHE/23/00398/FUL Detached garage at 31 Lockoford Lane, Chesterfield S41 7JA for Mr C De Girolamo
- CHE/23/00446/FUL Construction of two two-bedroom bungalows and associated fencing at Fairfield House, 64 Station Road, Brimington, Chesterfield S43 1JT for Mr Mark Anglesea
- CHE/23/00501/TPO T1 and T2 Maple- 50% crown reduction at 20 and 22 Foxbrook Drive, Walton, Chesterfield S40 3JR for Mrs Modupe Ayonrinde

(c) Discharge of Planning Condition

- CHE/23/00198/DOC Discharge of conditions 3 (Tree protection measures), 8 (Materials) and 9 (Biodiversity net gain) of application CHE/19/00810/FUL- Erection of a detached house at 132 High Street, Old

Whittington, Chesterfield S41 9LE for Micheal Ellis-Thompson

- CHE/23/00469/DOC Discharge of conditions 3 (Biodiversity) and 5 (Northern boundary treatment) of application CHE/22/00374/FUL - Demolition of existing conservatory and erection of a single/two storey rear extension. Resubmission of application CHE/21/00678/FUL at 62 Storrs Road, Chesterfield S40 3PZ for Mr Tim Vice
- CHE/23/00484/DOC Discharge of conditions 11 (Land contamination investigations) and 12 (Coal mining investigations) of application CHE/20/00878/FUL - Demolition of disused church/church hall building and erection of 9 three bedroom houses with associated access, parking and landscaping at St Patricks Church Hall, High Street, New Whittington, Chesterfield S43 2AN for Wilcockson Construction Ltd
- CHE/23/00534/DOC Discharge of Condition 23 (Further bat survey) of application CHE/22/00109/OUT- Outline application for the demolition of existing office premises and erection of residential dwellings, with all matters reserved except access at Manor Offices, Old Road, Chesterfield S40 3QT for Balfour Beatty Homes
- CHE/23/00539/DOC Discharge of conditions 4 (Biodiversity enhancement plan), 8 (Tree protection plan and arboricultural method statement), 9 (Landscaping plan) and 17 (Climate change) of application CHE/22/00607/FUL- Demolition of 20 and 22 Somersall Lane and erection of three replacement dwellings with associated parking and turning areas (existing accesses retained) at 20 Somersall Lane, Somersall, Chesterfield S40 3LA for Rutland UK Property Ltd
- CHE/23/00550/DOC Discharge of conditions 3 (Design and associated management and maintenance plan)

and 4 (Details of additional surface water run-off) of application CHE/22/00811/FUL - Resurfacing of parking areas and additional parking spaces, soft landscaping and speed management measures. Rendering, new windows, doors and balcony panels at Newland Dale, Newbold, Chesterfield S41 7QQ for Chesterfield Borough Council

(d) Partial Discharge of Conditions

CHE/23/00436/DOC Discharge of conditions 3 (land contamination), 4 (land levels), 6 (storage of plant and materials), 11 (surface water) of CHE/21/00633/FUL - Erection of a two bedroom detached dwelling at 41 Cobnar Drive, Newbold, Chesterfield S41 8DB for Mr John Ford

(e) CLUD granted

CHE/23/00390/CLU Certificate of lawful use for change of use of building to dwelling - resubmission of CHE/22/00580/CLUD at Greenfield Stables, 219A Handley Road, New Whittington, Chesterfield S43 2ES for Ms Tina Bannister

(f) Prior approval not required

CHE/23/00516/DEM Demolition of existing farmhouse and redundant agricultural buildings at The Old Crane Hire Yard (Walton Fields Farm), Walgrove Road, Walton, Chesterfield for Mrs Turner

CHE/23/00549/DEM Demolition of buildings at Manor Offices, Old Road, Chesterfield S40 3QT for Mr Tim Linnell

CHE/23/00551/TPD Single storey rear extension at 8 Westmoreland Road, Newbold, Chesterfield S41 8FA for Dr D Haidry

(g) Prior approval

CHE/23/00467/PA Prior approval for change of use to 1 flat at 35

West Bars, Chesterfield S40 1AG for Mr Ismael Abdullah

CHE/23/00488/PA Change of use of first and second floors to 2 dwellings at 24-26 Knifsmithgate, Chesterfield S40 1RF for Pemart Limited

(h) Unconditional permission

CHE/23/00588/CA Removal of dead tree in south west corner at Bowling Green, South Place, Chesterfield for Chesterfield Bowling Club

CHE/23/00612/CA T1,T2,T3,T4,T5 Lime - re-pollard, T7 Chestnut - re-pollard, T8 Ash - re-pollard (please extend permission to 10 years to allow 3 re-pollarding cycles) T6 Lime - Fell, tree is very close and interfering with T5 at 25 Porter Street, Staveley, Chesterfield S43 3UY for Mr David Mateer

(i) Other Council no objection with comments

CHE/23/00575/CPO Single storey building to provide accommodation for children's home, family support centre, short break, emergency provision and support services for young people from 8 - 17 who may have a physical disability, learning disability, autistic spectrum condition or sensory impairment together with vehicular and pedestrian access, car parking, landscaping and associated infra structure at former Ashbrook Centre, Cuttholme Road, Loundsley Green, Chesterfield for Derbyshire County Council

(j) Split Decision with Conditions

CHE/23/00568/TPO T1-Horse Chestnut. The tree is becoming too large for its location and taking light from the house and garden. 25% Crown reduction and thin canopy at 7 Hedley Drive, Brimington S43 1BF for Mr Smith

68 **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/23/00562/TPO

Consent is granted to the felling of one dead Elm trees reference T2 on the Order Map and which is situated in the greenspace to the rear of 8 Kentmere Way, Staveley with a condition to plant a replacement tree during the next available planting season. The replacement tree is to be one Oak and planted as near as reasonably possible to the original tree

CHE/23/00559/TPO

Consent is granted to the pruning of four trees reference T2, T4, T5 and T6 Lime on the Order map and which are situated in the front garden of 8 Oakfield Avenue, Somersall

CHE/23/00546/TPO

Consent is granted to the pruning of one Sweet Chestnut tree reference T22 on the Order Map and which is situated in the grounds of 2 Park Hall Garden, Walton. Consent is also granted to remove dead wood and small amount of epicormic growth

CHE/23/00567/TPO

Consent is granted to the pruning of one Copper Beech reference T32 on the Order map at 33 Oakfield Avenue

CHE/23/00558/TPO	Consent is granted to the pruning of 9 trees reference T4 – T10 Lime, T11 & T12 Copper Beech on the Order Map and which are situated on the west boundary of 73a Hady Hill
CHE/23/00581/TPO	Consent is granted to the pruning of Pine trees within G2 on the Order Map and which are situated to the west of 392 Ashgate Road, Ashgate
CHE/23/00569/TPO	Consent is granted to the pruning of one Willow tree reference T1 on the Order Map and which is situated in the grounds of Hawkinge House, Newbold Back Lane
CHE/23/00593/TPO	Consent is granted to the pruning of one Ash tree reference T4 on the Order Map and which is situated in the rear garden of 11 Woodland Walk, Holmehall
CHE/23/00602/TPO	Consent is granted to the pruning of two Oak trees reference T2 & T3 on the Order Map and which are situated adjacent to 23 Newbridge Lane, Brimington
CHE/23/00608/TPO	Consent is granted to The pruning of one Oak tree reference T117 on the Order Map and which is situated to the rear of 19b Private Drive, Somersall Lane
CHE/23/00501/TPO	Consent is refused to the pruning of two Maple trees reference T1 & T2 on the Order Map and which are situated to the rear 20 & 22

CHE/23/00568/TPO

Foxbrook Drive, Walton

Consent is refused to the pruning of one Horse Chestnut tree reference T14 on the Order Map and which is situated at 7 Hedley Drive, Brimington

Consent is however granted to a reduction of lateral branches to the south and west of the crown

Consent is also granted to a limited crown thin by 15%

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

CHE/23/00588/CA

The felling of one dead Pine tree at Chesterfield Bowling Club, Beetwell Street.

Agreement to the felling of one dead Pine tree. The felling of the tree will have no adverse effect on the character and amenity of the area. The tree is within the Town Centre Conservation Area.

CHE/23/00612/CA

The felling of one Lime tree and the re-pollarding of 5 Limes, 1 Ash and 1 Horsechestnut at 25 Porter Street, Staveley

Agreement to the felling and pruning of trees. The felling and pruning of the trees will have no adverse effect on the character and amenity of the area. The trees are within the Staveley Conservation Area. The applicant wishes to fell one pollarded Lime tree due to its location next to a larger Lime tree and its poor growth and form.

69 APPEALS REPORT (P000)

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

***RESOLVED -**

That the report be noted.

70 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.

71 LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF PUBLIC

***RESOLVED –**

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

**72 RETROSPECTIVE APPLICATION FOR GROUND WORKS,
PROVISION OF FENCING AND CHANGE OF USE ON LAND TO THE
NORTH EAST OF THE GOLF DRIVING RANGE, WHITTINGTON
ROAD, BARROW HILL, CHESTERFIELD**

In accordance with Minute No. 299 (2001/2002) Mr Alan Morris (applicant's agent) attended the meeting to answer any questions.

The Development Management and Conservation Manager submitted a report to inform members of the retrospective application.

***RESOLVED –**

That the application be approved with the conditions as set out in the report.

Agenda Item 4

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	13 th November 2023
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 13th NOVEMBER 2023**

ITEM 1	CHE/23/00284/FUL - REVISED SCHEME FOR 1 DETACHED DWELLING (DRAWINGS SUBMITTED 28.09.2023) AT LAND AT CROSS LONDON STREET, CROSS LONDON STREET, NEW WHITTINGTON, CHESTERFIELD, DERBYSHIRE FOR MR ZEESHAN AZIZ
ITEM 2	CHE/23/00385/FUL - PROPOSED SOLAR ARRAY AT HANDLEYWOOD FARM, WHITTINGTON ROAD, BARROW HILL, CHESTERFIELD, DERBYSHIRE, S43 2PW FOR MR AND MRS B STEELE

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ITEM 1**REVISED SCHEME FOR 1 DETACHED DWELLING (DRAWINGS SUBMITTED 28.09.2023) AT LAND AT CROSS LONDON STREET, CROSS LONDON STREET, NEW WHITTINGTON, CHESTERFIELD, DERBYSHIRE**

Local Plan: Unallocated

Ward: Whittington

1.0 CONSULTATIONS

Ward Members	Councillor Thornton – asked to represent residents of Cross London Street as they have objections to the planning application. Would like to attend the planning committee meeting to put forward the residents concerns.
Strategic Planning	Development is acceptable in principle. The site is located in proximity to range of key services and access to public transport links. Public amenity space is located 350m from the site and the Trans Pennine Trail is approximately 500m from the site (CLP1). The proposal would also accord with CLP2 criteria a) to h) owing to compliance with spatial strategy, utilisation of land and accessibility to public transport/active transit routes. Appropriate conditions should be used to cover: the water efficiency standard, the provision of electric vehicle charging points, secure cycle parking and the provision of a measurable net gain for biodiversity. The development would be CIL liable.
Environmental Health	No adverse comments to make. Condition controlling hours of construction recommended due to proximity to residential dwellings.
Design Services Drainage	The site should be developed using separate systems of foul and surface water drainage. Sustainable drainage principles should always be the first option in the hierarchy of surface water disposal. Any new connections to the public sewerage system will require prior approval from Yorkshire Water

The Coal Authority	Site does not fall within the Development High Risk Area, standing advice applies
Local Highway Authority	There are no highway safety objections to the above mentioned planning application as long as the description on the planning portal is amended to propose 1 dwelling instead of 3 dwellings. Conditions and informative notes recommended
CIL Officer	CIL paperwork provided
Representations	6 letters of representation submitted between 26.05.2023 and 20.06.2023 from 8 neighbours with comments made on the basis of the original proposal for 3 dwellings. The neighbours were re-consulted on the revised scheme for 1 dwelling and no further letters of representation have been received. All representations submitted contain concerns regarding material planning considerations and therefore will still be considered as part of the committee report in section 6.0 below.

2.0 THE SITE

- 2.1 The site subject of this application is situated on the north side of Cross London Street. The site is broadly rectangular in shape and a turning head serving the street forms the site frontage. Fixed bollards to the east of the site prevent vehicular access to Albert Street, turning Cross London Street into a cul-de-sac. The site extends to approximately 0.02 hectares in area (240m²) overall. Historical imagery suggests the site has been vacant since at least 2007.
- 2.2 The surrounding streetscene comprises of predominately terraced residential dwellings. New Whittington Community Primary School is located to the north of the site. The site is in a sustainable location approximately 200m walking distance of New Whittington service centre which offers a range of facilities and services. The application site is not allocated for a specific use on the Chesterfield Borough Council adopted local plan policies map 2018-2035 and is within the defined built up area (Policy CLP3).



Aerial photograph of site taken from Google ©



Site photographs

3.0 **SITE HISTORY**

- 3.1 CHE/1286/0737 - Permission for change of use to doctors surgery chemist shop / pharmacy and car park at 12 Cross London Street & land adjacent New Whittington Chesterfield for Dr. B. Singh & Mr. Mason – **Conditional permission (26.02.1987)**

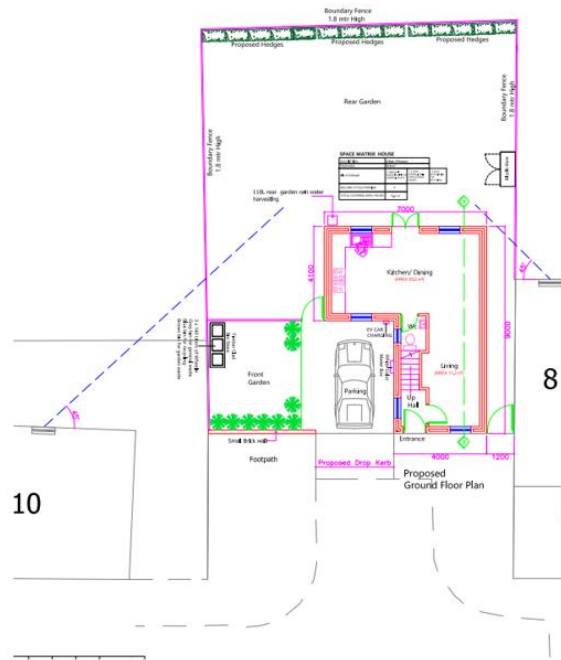
4.0 THE PROPOSAL

- 4.1 The revised application proposes the erection of one detached dwelling. The original scheme submitted (15.05.2023) proposed a row of three dwellings forming a terrace and resulted in the loss of the turning head serving Cross London Street. Amended plans were provided on the 22.05.2023 following discussion between the Agent and the Local Highways Authority (Derbyshire County Council) legal team. It was subsequently confirmed that development was prohibited on the land serving the turning head and pavement. The scheme proposed moving the 3 dwellings 2m further north in the site to retain the turning head (drawings dated 22.05.2023)
- 4.2 The Local Planning Authority raised concerns regarding the proposed scheme for three dwellings stating that the submission was considered to be an overdevelopment of the plot, resulting in adverse impacts on highway safety, parking provision and would add pressure to existing on-street parking spaces. Further concerns were also raised regarding potential impacts on the amenity of existing residents, separation distances between the proposed dwellings and existing properties. The overall design, height, scale, massing, orientation and siting/layout of the scheme was considered to be unacceptable.
- 4.3 In response to the concerns raised by the Local Planning Authority the agent submitted revised plans on the 28.09.2023 proposing one dwelling on site with revised site layout and parking plan. The application is assessed on the basis of the revised plans for a single dwelling.

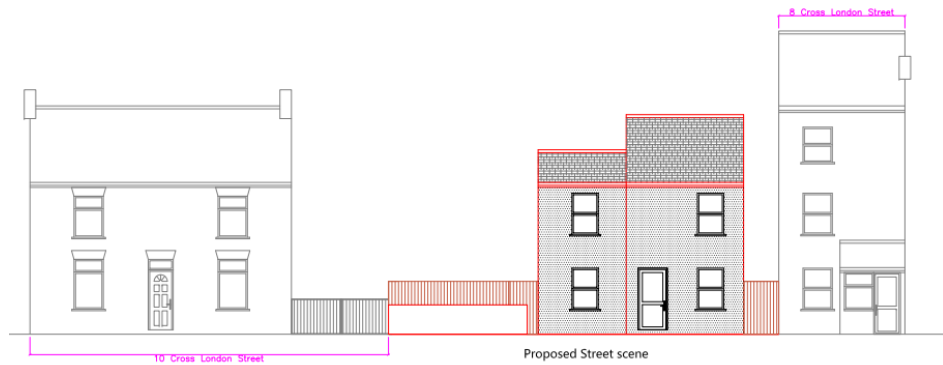
Revised plans for one dwelling

- 4.4 The application proposes a two storey detached 'L-shaped' dwelling, comprising of an open plan kitchen/dining/living room at ground level with two bedrooms (one with en-suite), bathroom and a store room at first floor. Additional storage space is also provided within the loft space. The gross internal area of the dwelling is approximately 84sqm overall (including additional storage space in loft).
- 4.5 The proposed dwelling is served by a large garden which exceeds the minimum recommended size for private amenity space. A small front garden area is proposed to provide space to store bins enclosed by a small brick wall. The enclosed front garden space will also ensure the pavement/footpath remains accessible with a single point of vehicular access and dropped kerb from the turning head. The proposal also includes electric charging provision and secure bicycle storage in the rear garden.

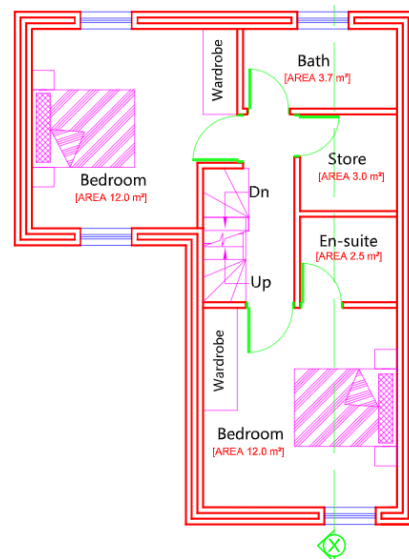
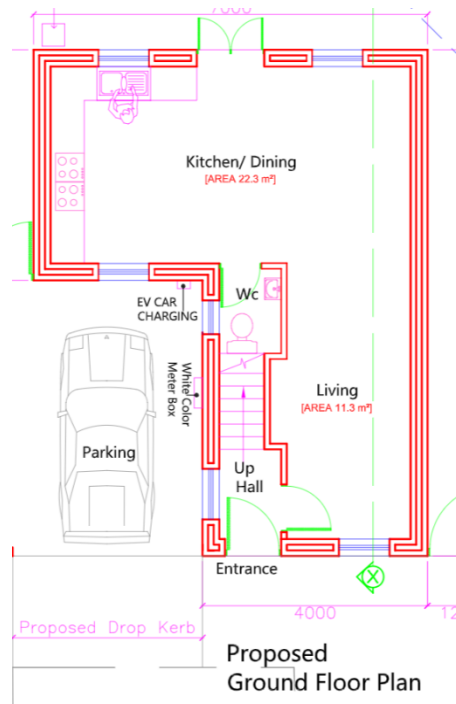
Proposed Site Plan



Proposed Streetscene

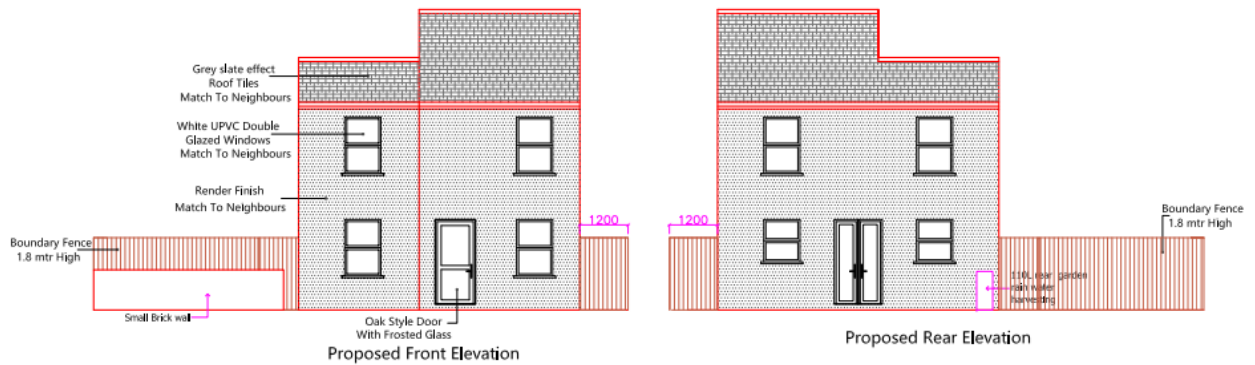


Proposed Floorplans

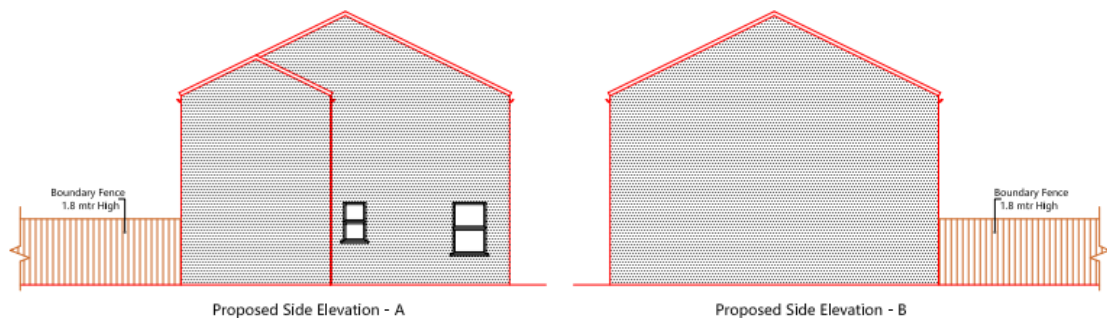


Proposed First Floor Plan

Proposed Elevations (Front and Rear)



Proposed Elevations (East and West side)



- 4.6 The design of the proposal responds to the character of the prevailing built form. The proposal comprises of 2 storey building with dual pitched roof and side gables. Submitted plans indicate red facing brick with grey slate effect roof tiles and white upvc windows.

5.0 **CONSIDERATIONS**

5.1 **Planning Policy**

- 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 Chesterfield Borough Local Plan 2018 – 2035.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development
- CLP3 Flexibility in Delivery of Housing
- CLP13 Managing the water cycle
- CLP14 A Healthy Environment
- CLP15 Green Infrastructure

- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 **Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF) 2023
 - 5. Delivering a sufficient supply of homes
 - 8. Promoting healthy and safe communities
 - 9. Promoting sustainable transport
 - 12. Achieving well-designed places
 - 15. Conserving and enhancing the natural Environment
- ‘Successful Places’ Supplementary Planning Document

5.4 **Principle of Development**

Relevant Policies

- 5.4.1 The application site is unallocated and is positioned within the built up area of New Whittington therefore policies CLP1 and CLP2 are of relevance.
- 5.4.2 Policy CLP1 states that *‘The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the ‘place shaping’ areas set out in policies SS1 to SS6 and Regeneration Priority Areas.’*
- 5.4.3 Policy CLP2 states that when *‘Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:*
- a) deliver the council’s Spatial Strategy (policy CLP1);*
 - b) are on previously developed land that is not of high environmental value;*
 - c) deliver wider regeneration and sustainability benefits to the area;*
 - d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;*
 - e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;*
 - f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;*
 - g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals*

*Local Plan and shown on the Policies Map;
h) are not on the best and most versatile agricultural land;'*

- 5.4.4 The principle of development however remains compliant with the latest version of the NPPF.

Considerations

- 5.4.5 The application site is unallocated and is positioned within the built up area of New Whittington therefore policies CLP1 and CLP2 are of relevance. The Planning Policy/Strategic Planning team reviewed the application and confirmed that the proposal would not be a departure from the Local Plan and would accord with the broad location principles of the Local Plan policies CLP1 and 2 and the NPPF.
- 5.4.6 The application site is located within walking and cycling distance of key services located in the defined New Whittington service centre with access to public transport therefore the proposal is considered to accord with the principles of CLP1. Public amenity space is located 350m from the site and the Trans Pennine Trail is approximately 500m from the site. The proposal would also accord with CLP2 criteria a) to h) owing to compliance with spatial strategy, utilisation of land and accessibility to public transport/active transit routes.

5.5 Design and Appearance of the Proposal

Relevant Policies

- 5.5.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.'*
- 5.5.2 Successful Places SPD provides further guidance on minimum standards and design considerations.

Considerations

- 5.5.3 The application proposes the erection of a 2 storey building formed of a L-shaped footprint positioned towards the eastern boundary of the site. The proposal is set back from Cross London Street and is served by off-street parking for one vehicle. The revised proposal has been designed to respond to the traditional architectural character of the surrounding dwellings with a dual pitched roof form and side gables.

- 5.5.4 The dwelling will be faced in brick with slate effect roof tiles to match the prevailing palate of materials. The building is 2 storeys in height. The scale and massing are considered to be acceptable within the site context. It is recommended that a condition be imposed requiring the submission of specific materials (roofing and walling) and windows prior to ordering.
- 5.5.5 The proposal will create a dwelling which would provide acceptable levels of living accommodation for future occupiers. The dwelling will have a rear garden which significantly exceeds the minimum recommendations for a two bedroom dwelling. Landscaping details have been provided indicating areas of proposed planting, hard surfacing and boundary treatment. Specific details of type/numbers of plants and materials have not been provided and therefore should be controlled by condition.
- 5.5.6 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the provisions of policy Local Plan policies CLP20 and the Council's SPD

5.6 Impact on Residential Amenity of Surrounding and Future Occupiers

Relevant Policies

- 5.6.1 Local Plan policy CLP14 in part states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'.
- 5.6.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'

Considerations

- 5.6.3 The application site is predominately bound by residential and commercial premises. The revised scheme now proposes one dwelling with amended footprint and overall massing to mitigate impacts on the amenity of the surrounding occupiers. Windows have been limited to ground floor only in the west (side) elevations to minimise potential overlooking impacts. The revised scheme provides a larger rear garden which helps to provide additional separation between existing properties and the proposed dwelling.

- 5.6.4 The revised site plan proposes a small increase to the width of the access path between the side elevation of the dwelling and No 8. The revised plan indicates the proposal will accord with the 45 degree rule in respect of windows serving No 8 Cross London Street.
- 5.6.5 It is recommended that conditions requested by the Environmental Health Officer covering construction working hours be imposed on the decision in the interests of the amenity of the surrounding occupants.
- 5.6.6 Having consideration for the observations above the proposal is considered to be appropriately designed and subject to conditions would not cause any significant injury to the residential amenity of the other boundary sharing neighbours. The proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.7 Highways Safety, Vehicle and Cycle Provision and Air Quality

Relevant Policies

- 5.7.1 Local Plan policy CLP20 expects development to '*g) provide adequate and safe vehicle access and parking;*' and '*h) provide safe, convenient and attractive environment for pedestrians and cyclists*'.
- 5.7.2 Local Plan policy CLP22 details the requires '*To reduce congestion, improve environmental quality and encourage more active and healthy lifestyles, the Council will seek to maximise walking, cycling and the use of public transport through the location and design of development and parking provision*' and seeks '*e) provision of opportunities for charging electric vehicles where appropriate.*'

Considerations

- 5.7.3 The revised scheme seeks to retain the turning head and provide off-street parking for one vehicle. Access to the parking space will be taken from the turning head and as such it is considered this will serve to prevent vehicles parking in the turning head and will ensure it remains available for use.
- 5.7.4 The Local Highway Authority were consulted on the original scheme and raised concerns regarding the proposal. The Highway Authority were consulted on the revised scheme for one dwelling and raised no objections subject to conditions. Conditions were requested covering the following; pre-commencement construction management plan, creation of new vehicular access before any other operations are commenced, provision of parking space in accordance with plans prior

to occupation of dwelling, no gates/barriers on the driveway and gradient of the driveway.

- 5.7.4 The comments from the Local Highways Authority have been noted. It is recommended that the conditions proposed by the Highways Authority be imposed on the decision with the exception of the condition covering the gradient of the parking space. The submitted drawings indicate that the site will be levelled as part of the development therefore it is anticipated that the parking space can be provided at an acceptable gradient.
- 5.7.5 The applicant has provided a revised plan showing electric charging provision on site, as electric charging provision is now covered by building regulations it is no longer necessary to impose this requirement by condition.
- 5.7.6 The revised scheme also includes secure cycle storage in the rear garden, which should be controlled by condition.
- 5.7.7 Subject to conditions covering the matters raised above the proposal is considered to accord with the requirements of CLP20 and CLP22.

5.8 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.8.1 Local Plan policy CLP13 states that *‘The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. Development proposals and site allocations will:*
- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;*
 - b) be directed to locations with the lowest impact on water resources;*
 - c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.*
- 5.8.2 Local Plan policy CLP13 states that *‘Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.’*

Considerations

- 5.8.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. Having regards to the provisions of CLP13 and the wider NPPF the application was referred to the Council's Design Services (Drainage) Team for comments in respect of flood risk and drainage/waste water
- 5.8.4 The Design Services (Drainage) Team reviewed the application and highlighted that the site is not shown to be at risk of flooding according to the Environment Agency maps and requested to see full drainage details prior to full approval of how the developer intends to dispose of surface water and foul drainage from the site. The site should be developed using separate systems of foul and surface water drainage. Sustainable drainage principles should always be the first option in the hierarchy of surface water disposal. Any new connections to the public sewerage system will require prior approval from Yorkshire Water.
- 5.8.6 Subject to the imposition of relevant conditions covering water efficiency the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.9 **Ground Conditions**

Relevant Policies

- 5.9.1 Local Plan Policy CLP14 requires consideration of land stability, coal mining risk and land contamination.

Considerations

- 5.9.2 The application site is not located in an area considered to be at 'high risk' of former Coal Mining Legacy therefore standing advice applies. The Council's Environmental Health Officer raised no concerns were raised regarding land contamination requiring further information. The proposal is therefore considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.10 **Biodiversity including Trees and Landscaping**

Relevant Policies

- 5.10.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*
- *avoid or minimise adverse impacts on biodiversity and geodiversity;*
 - *and*
 - *provide a net measurable gain in biodiversity'*

5.10.2 The NPPF also requires net gains in biodiversity (paragraph 180 d).

Considerations

5.10.3 The site previously comprised of scrub with self-set trees, some site clearance has recently been undertaken to remove self set trees. The existing site therefore has limited biodiversity value.

5.10.4 The application is supported by a proposed landscaping and site boundary treatment plan however this does not go into extensive detail regarding the number of plants/species etc. It is recommended that a detailed landscaping plan be submitted with additional measures to enhance biodiversity in accordance with the information contained within the submitted appraisal. It is considered that there is scope for new planting within the site including potential for wildlife friendly planting and native hedge to provide enhanced botanical diversity and food sources for wildlife. Additional biodiversity enhancements such as bat bricks/roosts built within the house and swift bricks to encourage nesting birds should be included.

5.10.5 It is therefore recommended that a condition be imposed requiring the development to demonstrate a measurable net gain in biodiversity in accordance with the requirements of CLP16 and the NPPF.

5.11 Developer Contributions and Community Infrastructure Levy

5.11.1 Having regard to the nature of the application proposals the development comprises the creation of a new dwelling and is therefore CIL Liable.

5.11.2 The site the subject of the application lies within the medium CIL zone and therefore the CIL Liability is calculated (using gross internal floor space and is index linked).

		A		B	C	D	E
Development type	Proposed floor space (GIA in Sq. m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq. m)	CIL Rate	Index permission	Index Charging schedule 2020	CIL Charge
Residential (C3)	84	0	84	£50.00 (Medium Zone)	355	288	£5177

Calculation:

CIL Charge (E) is calculated as outlined below:

$$\frac{\text{Net Area (A) x CIL Rate x BCIS Tender Price Index (at date of permission) (C)}}{\text{BCIS Tender Price Index (at date of charging schedule) (D)}}$$

Therefore, the CIL charge liable for this application is as follows:

$$\frac{84 \times \pounds 50 \times 355}{288} = \pounds 5177$$

6.0 REPRESENTATIONS

6.1 The application has been publicised by neighbour notification letters. 6 letters of representation submitted between 26.05.2023 and 20.06.2023 from 8 neighbours with comments made on the basis of the original proposal for 3 dwellings. The neighbours were re-consulted on the revised scheme for 1 dwelling and no further letters of representation have been received. All representations submitted contain concerns regarding material planning considerations, therefore the main points raised are summarised below (letters available to read in full on website);

- **Highway safety/parking concerns**

- Cross London Street is a small road with already insufficient parking. There is nowhere else to park around the road due to the surrounding roads also having residential homes. It's already difficult to park on the street for the residents as it is, if this goes ahead, 5 parking spaces will be taken and more spaces will be taken if the new residents have more than one car.
- Only one property on Cross London Street has off-street parking, all remaining properties rely on on-street parking.
- The building will also remove the turning point of the road which is currently a cul de sac. This will then mean cars reversing out of the street onto another road which causes safety issues with poor visibility.
- The Applicants "Design and Accessibility" document section "Local Parking stress analysis" total misrepresents the true nature of this area. (a.) Their analysis is based on satellite imagery taken at midday (northerly shadows on all images) at this time most car owners are at work. The picture is totally different on evenings, nights and weekends, with all available parking spaces used and resident having to park in neighbouring streets. Also, at school drop off and pickup time the availability of parking can cause dangerous interactions with the large numbers of pedestrians who walk to and from the school. (it should also be noted that the school entrance to the rear from back south street has not been considered. (b.) They have identified parking spaces available at the lowest parking stress time to present a less than 50 percent stress level. They

have included 8 available spaces on Back South Street to achieve this figure where there are none. Vehicular access to Back South Street is by Easement for limited use only. The parking spaces available are for the sole use of the occupants of the bungalows on South Street. The other two spaces identified would totally block vehicle access to Back South street. The markers on the image supplied (are on the Kitchen and garden of No 2 Cross London Street.

- The Applicant stresses the lack of incidents in the area by referencing the "Crash Map" Data. The development during the construction phase and use of the site could impact this. It should be considered that this street is currently a safe walking route to the school, both entrances London Street and Back South Street could be impacted. In particular: (a.) Vehicles having to reverse back out of Cross London street and out on to London Street. With no turning space available this would be inevitable. (b.) Proposed house 3 does not have the required visibility splay to cross the pavement. At times this pavement is very busy with children, parents and prams. Cars from this property also would not be able to reverse in so would have to reverse out further reducing the splays and have no space in the road to turn. The other two properties may also drive in forwards so would have to reverse out on to a busy pedestrian area without having the benefit of guaranteed viability splays at all times.
- Cross London Street has a total of 20 residential dwellings and a small block of flats, and is a narrow Cul De Sac divided into two halves, by bollards and a pedestrian area. The half affected, has 13 of these houses. There is already insufficient parking along the street, and the development will exacerbate this situation. Only one household has a drive on which to park their vehicle (No 10), whilst all other vehicles have to park in the little available space there is. Most of the households have at least 2 vehicles, leading to parking on adjacent streets, occurring frequently. The half affected by the above proposed development, has a turning a space at the end. Therefore, this space will disappear if the development goes ahead, and the Street will not be wide enough for any vehicle to attempt to execute a 3 point turn without this available turning space, due to the number of vehicles parked along the street. Thus ensuing them to either reverse onto the street or reverse off the street. Reversing off Cross London Street on London Street, would be a safety issue as it is at a right angle to Cross London Street, or onto Fallowfield Road. The highway code also notes: Do not reverse from a side road into a main road. Both of these roads have impaired visibility due to having numerous vehicles parked on them, including some from Cross London Street. As a household, we have already suffered financial losses, on several occasions, due to vehicles

reversing or driving into our parked vehicles, whilst attempting a three point turn. Access for emergency vehicles is already somewhat reduced and the above mentioned development would cause this reduced access to become severely restricted.

- **Amenity impacts – overshadowing/loss of privacy**
 - objection as no development should intrude over a line drawn at an angle of 45° in the horizontal plane from the midpoint of the nearest window of a habitable room - the Applicant's revised plan falls foul of this code as they have omitted from their drawing my kitchen window to the back of my property no.10 Cross London Street.
 - The building will be block light to properties either side and the occupants will lose privacy
 - The houses proposed to being built will take away the privacy of my home and other homes and will be looking straight into our bedroom windows. The top floor of these 3 new builds will be affecting number 13, 15 (my house) and 17s privacy as their top floor will be looking into our bedrooms
 - The houses will also be looking over onto the school playground which I expect most parents wouldn't like. New Whittington Primary School is at the bottom of the development site, and the Playground and Classrooms will be overlooked. This is an issue regarding the welfare and safety of the children
- **Disruption/safety concerns during construction**
 - With regards to the actual building of the properties, the road is not designed for large lorries, and this would also disrupt the parking and residents that live on the road. When building the houses, it will make it getting onto our own street horrendous as we won't be able to park or get up and down it with ease due to work vans, material delivery trucks and even skips.
 - There would be significant noise and disruption from the building works and construction traffic, and the street is not wide enough to cope with large delivery vehicles and construction vehicles.
 - Cross London Street is also frequently used by parents and guardians of school children attending New Whittington Primary School, as a safe drop off and pick up point. Many children regularly walk along the street before and after school, and the construction vehicles would pose a threat to their health and safety, compromising a safe route to school.
- **Use of land**
 - The land has never been used for residential use and use to have a church on it. This land could be used for better use e.g. more parking, nature reserve, patch of grass for the children to play on, flower garden.
 - The site of the land in the proposed development, has never been used for residential properties. Online records show that the land used to house a local Methodist Church and Sunday School. We

have already had a lack of consideration and respect when the land was being cleared

6.2 Officer comments – the above comments have been noted

- **Highway safety/parking concerns** - revised plans submitted seek to retain the turning head and provide dedicated off-street parking for one dwelling. Access to the parking space is taken from the turning head which should prevent parking in the turning facility. No highway safety concerns have been raised by the Local Planning Authority subject to conditions as set out.
- **Amenity impacts** – the revised scheme proposed a single two storey dwelling which is set back from the turning head creating a larger separation distance between existing dwellings. The massing and scale of the development has been reduced which serves to lessen potential impacts of overshadowing/loss of light to adjacent properties.
- A separation distance of approximately 21m exists between the rear elevation of the proposed dwelling and the boundary of the School to the north. The separation distance accords with the generally accepted principles as set out in the adopted SPD.
- **Disruption/safety concerns during construction** – disturbance during construction is controlled via conditions on operating hours and vehicle management as recommended.
- **Use of land** – requests for alternative land uses have been noted. Each application is assessed on its own merits.

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 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and paragraph 38 of 2023 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

9.0 **CONCLUSION**

9.1 The application site is situated in a sustainable location and the proposal would introduce additional housing within the existing built up area of New Whittington and therefore meets the strategic requirements of Local Plan policies CLP1, CLP2 CLP3 and the NPPF. Subject to conditions the proposal will therefore accord with the provisions of policy Local Plan policies CLP14, CLP20 and CLP21. Adequate off-street parking is proposed as part of the development and retention of turning head with secure cycle parking for future occupants, therefore subject to conditions the proposal therefore accords with the requirements of CLP20 and CLP22. Subject to conditions the proposal is considered to accord with the principles of CLP13, CLP14, CLP16 and the wider National Planning Policy Framework.

10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be **GRANTED** subject to the following:

Conditions

Standard time frame

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

Reason - This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

Approved plans and documents

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below) with the exception of any approved non-material amendment. All

external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Site Location Plan, drawing number 113
- Proposed Ground Floor Plan, drawing number 101 (dated 05.09.2023)
- Proposed First Floor Plan, drawing number 102 (dated 05.09.2023)
- Proposed Loft Plan, drawing number 103 (dated 05.09.2023)
- Proposed Roof Plan, drawing number 104 (dated 05.09.2023)
- Proposed Front and Rear Elevations, drawing number 105 (dated 05.09.2023)
- Proposed Side Elevations, drawing number 106 (dated 05.09.2023)
- Proposed Street Scene, drawing number 109 (dated 05.09.2023)

Reason - In order to clarify the extent of the planning permission.

Pre-commencement construction management plan

3. Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Arrangements for turning vehicles;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason – In the interests of highway safety in accordance with Local Plan policies CLP20 and CLP22.

Creation of access prior to commencement of other operations

4. Before any other operations are commenced a new vehicular access shall be created to Cross London Street in accordance with the application drawing 101.

Reason – In the interests of highway safety in accordance with Local Plan policies CLP20 and CLP22.

Hours of construction

5. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1700 hours on Saturdays, and at no time 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 - *To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with CLP20 and CLP14*

Approval of Materials

6. Prior to the development hereby permitted commencing above foundation level precise specifications or samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason - *To ensure a satisfactory external appearance of the development in accordance with CLP20 and CLP22 of the Local Plan*

Landscaping

7. Prior to the development hereby permitted commencing above foundation level a scheme shall be submitted to the Local Planning Authority for the treatment of all parts on the site not covered by buildings to be 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.

Details shall include:

- a. a scaled plan showing trees and plants to be planted including species and planting density. The plan shall include details of ecologically beneficial landscaping to provide a biodiversity enhancement.
- b. proposed hardstanding surfacing materials
- c. elevational drawings of boundary treatments including materials, types of fencing and treatment/colour.
- d. a schedule detailing sizes and numbers of all proposed trees/plants, sufficient specification to ensure successful establishment and survival of new planting.
- e. Location and type of bird/bat boxes

Reason - *In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance it in accordance with policies CLP16 and CLP20 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 174 of the National Planning Policy Framework.*

Biodiversity enhancement scheme

8. Prior to the development hereby permitted commencing above foundation level, a scheme (including a programme of implementation and maintenance) to demonstrate an enhancement of the sites biodiversity primarily through the soft landscaping of the development, shall have been submitted to and approved in writing by the Local Planning Authority. The enhancement shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.

Reason - *In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 174 of the National Planning Policy Framework.*

Landscaping maintained for 5 years

9. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason- *To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with CLP20 and CLP16*

Water efficiency

10. The dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason - *To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 153 of the National Planning Policy Framework.*

Parking provision

11. The development, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved application drawings 'Proposed Ground Floor Plan, drawing number 101 (dated 05.09.2023)' for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason - *In the interests of providing adequate off-street parking provision in accordance with CLP20 and CLP22.*

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or reenacting that Order with or without modification) no fences, gates, walls or other means of enclosure shall be erected within the curtilage forward of the dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason - *To ensure appropriate visibility is retained with low level boundary treatments across the site frontage in accordance with Policies CLP20 and CLP22 of the Adopted Local Plan 2020.*

Bicycle store

13. The development, the subject of the application, shall not be occupied until space has been provided within the application site for the storage/parking of bicycles. Details of the proposed bicycle store shall be submitted to the Local Planning Authority for written approval and shall be installed prior to the occupation of the development and thereafter be maintained free from any impediment to its designated use.

Reason - *In the interests of providing adequate off-street parking provision in accordance with CLP20 and CLP22.*

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning

permission. Any proposed amendments to that which is approved will require the submission of a further application.

2. 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. 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).
4. Section 184 Licence. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
5. 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 against the householder.
6. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from the County Council Traffic Management Team and all road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp
9. The applicant should be aware that if any of the site is subject to a covenant which protects that land indicated on any approved drawing, obligations on the land owner and the protection of future access and maintenance rights for the Highway Authority which will pass with successors in title.
10. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

11. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
12. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the relevant legislation. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
13. In accordance with conditions 7 and 8 above appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
 - Bird/owl/bat boxes

- (Locating your nestbox: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
- You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
- The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.
- Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)
- (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
- Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.
- Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.

Species	Potential Enhancement Measure	Notes
Wildflowers	<p>Native wildflower meadow areas: as an alternative to amenity grassland.</p> <p>Wildflower verges.</p>	<p>Wildflower meadow can be added where there is grassed verge / communal garden space as well as within residential gardens or as part of wider landscaping schemes. Advice for creating and maintaining a wild patch is available on the Wildlife Trust website and through Flora Locale.</p>
Birds	<p>Bird Boxes and other nesting features: (such as stone ledges and wooden cladding).</p> <p>Native species planting and boundary features: Berry and seed producing shrubs are particularly beneficial for wildlife and include: Barberry, Blackthorn, Common Dogwood, Guelder Rose Hawthorn and Spindle berry.</p>	<p>Particularly where adjoining natural areas such as woodland, areas of priority habitat and the river and canal environment. For guidance on installing bird boxes including minimum height see: https://www.bto.org/how-you-can-help/providing-birds/putting-nest-boxes-birds/putting-nest-box</p> <p>Generally, boxes should be sheltered from prevailing wind, rain and strong sunlight. Check local records (Magic portal and DWT advice) for target species.</p>
Invertebrates	<p>Bug hotels and log piles with stones: particularly near ponds.</p> <p>South facing banks: with some bare ground.</p> <p>Rough or natural stone walls with holes for</p>	<p>Examples of living roof projects are available on the Buglife web page: https://www.buglife.org.uk/our-work/living-roof-projects/</p>

	<p>invertebrates to use. Brown roofs with a range of substrates these are particularly recommended on brownfield sites where open mosaic habitat may have been lost. The substrate does not have to cover the entire roof.</p>	
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ITEM 2

PROPOSED SOLAR ARRAY AT HANDLEYWOOD FARM, WHITTINGTON ROAD, BARROW HILL, CHESTERFIELD, DERBYSHIRE, S43 2PW FOR MR AND MRS B STEELE

1.0 CONSULTATIONS

Ward Members	No comments received
Strategic Planning	The scheme would be an inappropriate development in principle and is unlikely to qualify for very special circumstances.
Environmental Health	No objection
Highways Authority	Requested more details provided regarding construction period, site parking and turning, and any impact on the footpath.
Representations	No comments received

2.0 THE SITE

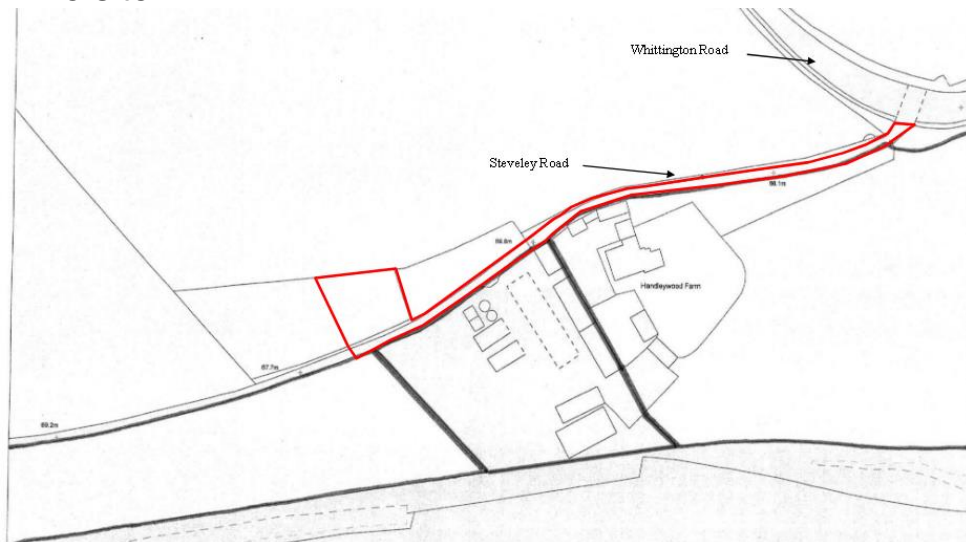
- 2.1 The site the subject of the application comprises land to the north of the curtilage of Handleywood Farm (which has recently been the subject of planning permission for a replacement farmhouse building that is under construction). The site is bound on the south by Staveley Footpath 2 which leads from the corner of Whittington Road on a west – east axis. It is an undeveloped field, fenced off with a post and rail fence to the sides and a with a mature hedge to the north.
- 2.2 The overall farm complex, which in addition to the new and old farmhouse building, comprises of a cluster of barns, outbuildings and stables located predominantly in the western proportion of the site from the original farmhouse.
- 2.3 In the eastern portion of the wider site there is an equestrian manege and open fields. The site is served by an access track which follows

the alignment of the public right of way linking through to Whittington Road.

Photo of the site:



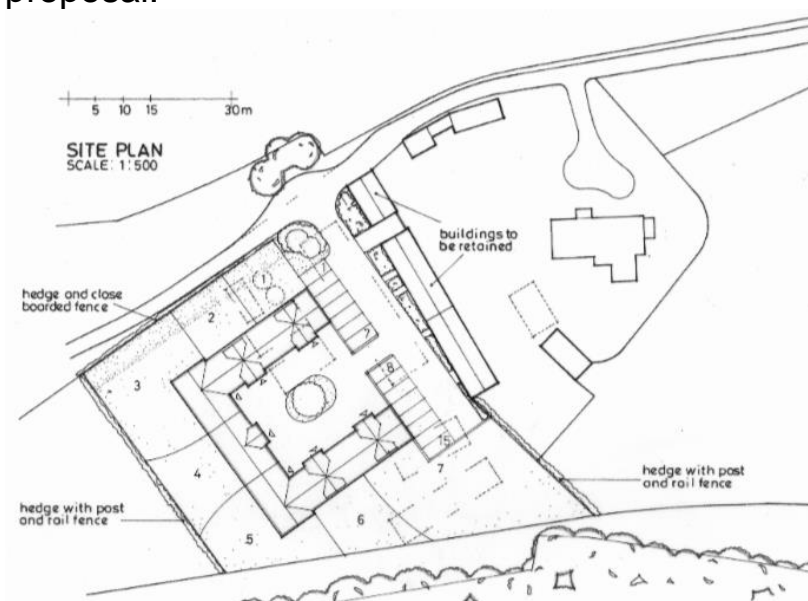
The site:



2.4

There is an engine recovery business still operating from within the wider site. There is also a planning permission on the wider site for 7 additional dwellings to the south of the site (CHE/22/00362/FUL).

Approved plans for the dwellings which are associated with the proposal:



3.0 SITE HISTORY FOR WIDER FARM SITE

Previous Site History - Outbuildings

- 3.1.1 CHE/22/00362/FUL - Demolition of buildings used for commercial purposes and erection of 7 dwellings and conversion of out-buildings for use as home-working studios (in conjunction with the dwellings) and associated access/parking and landscaping. Approved conditionally 26th September 2022
- 3.1.2 CHE/19/00102/FUL - Demolition of buildings used for commercial purposes and erection of 7 dwellings, access and landscaping. Approved conditionally 2nd July 2019
- 3.1.3 CHE/16/00023/FUL - Demolition of buildings used for commercial purposes and erection of 5 dwellings, access and landscaping. Approved conditionally 10th August 2016
- 3.1.4 CHE/10/00162/EOT - Extension of time of CHE/07/00198/COU for change of use of buildings for B8 storage and B2 industrial use. Approved conditionally 1st September 2010.
- 3.1.5 CHE/09/00665/EOT - Extension to the time limit for carrying out the alterations to the vehicular access to the highway (CHE/06/00669/FUL). Approved conditionally 7th December 2009.

- 3.1.6 CHE/09/00179/DOC - Discharge of condition 5 of planning application CHE/07/00198/COU. Approved 18th May 2009.
- 3.1.7 CHE/07/00198/COU – Use of buildings for storage (B8) an industrial use (B2). Approved conditionally 30th May 2007 – conditions concerning landscaping, outside storage and parking.
- 3.1.8 CHE/06/00669/FUL – Alterations of vehicular access to highway. Approved conditionally 26th October 2006.
- 3.1.9 CHE/04/00827/COU – Retrospective application for retention of use of buildings for storage (B8) and Industrial Use (B1 and B2). Refused 17th December 2004.
Appealed under PINS Ref. - APP/A1015/A/05/1172927 and dismissed.
- 3.2.1 Previous Site History - Farmhouse
- 3.2.2 CHE/11/00611/FUL - Demolition of existing building and erection of replacement dwelling - supporting information received 19/12/2011 (Bat Survey & Materials Samples). Approved conditionally 22nd December 2011.
- 3.2.3 CHE/09/00646/NMA – To extend the width of the approved dwelling by 1 metre on each side (application CHE/08/00592/FUL). Granted 3rd November 2009.
- 3.2.4 CHE/08/00592/FUL – Demolition of existing dwelling and erection of replacement dwelling. Conditional permission granted 9th December 2008.
- 3.2.5 CHE/06/00901/FUL – Construction of a ménage. Approved conditionally 17th January 2007.

4.0 THE PROPOSAL

- 4.1 Planning permission is sought to build a solar array, with the installation of 48 solar panels in 6 rows on agricultural land within the Green Belt. The PV panels are to be a ground mounted system where the panels are mounted on tubs which are ballasted. The panels would not exceed 1.8m in height and there would be a 0.5m separation between each row.

Block plan of the site:

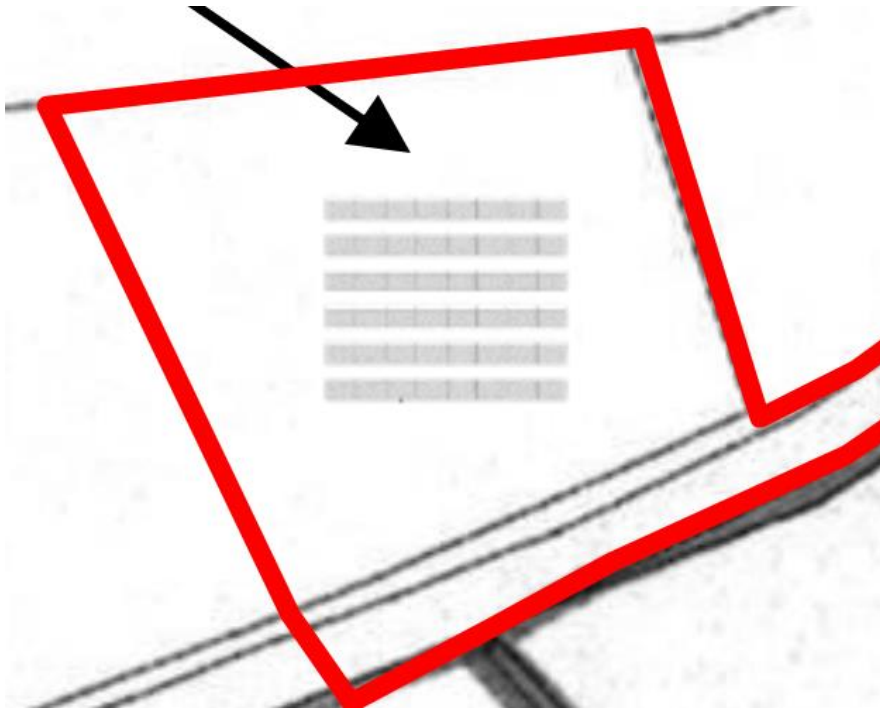
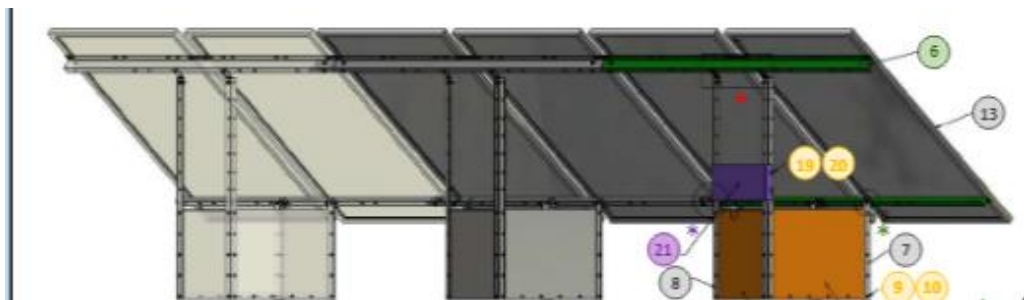


Image of the proposed panels:



5.0 **PLANNING POLICY**

5.1 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 Chesterfield Borough Local Plan 2018 – 2035.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)

- CLP12 Renewable Energy
- CLP14 A Healthy Environment
- CLP15 Green infrastructure
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 **National Planning Policy Framework 2023**

- Part 2. Achieving sustainable development
- Part 8. Promoting healthy and safe communities
- Part 9. Promoting sustainable transport
- Part 12. Achieving well-designed places
- Part 13. Protecting Green Belt land
- Part 15. Conserving and enhancing the natural environment

6.0 **CONSIDERATION**

6.1 **Principle of Development**

6.1.1 The proposed development site is an agricultural field outside the built-up area, within Green Belt area where restrictive planning policies apply.

6.1.2 Policy CLP1 requires the existing Green Belt to be maintained and enhanced. Policy CLP15 stipulates that development proposals should not conflict with the aim and purposes of the Green Belt (as set out in the NPPF). As a site in the Green Belt the solar array would in principle be deemed inappropriate development.

6.1.3 The five purposes of the Green Belt are: (as set out in para 138 of the NPPF):

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 6.1.4 Paragraph 147 of the National Planning Policy Framework (NPPF) states that "...inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 148 states that "very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations".
- 6.1.5 Paragraph 149 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. *Exceptions to this are:*
- a) buildings for agriculture and forestry;*
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
 - e) limited infilling in villages;*
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
- None of these exceptions are relevant in this case.
- 6.1.6 Paragraph 150 states that *certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:*
- a) mineral extraction;*
 - b) engineering operations;*

- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

None of these types of development are relevant in this case.

As none of the exceptions or appropriate development types apply in this case, the development is considered to be inappropriate development in the Green Belt which is contrary to para 147 of the NPPF.

- 6.1.7 It is therefore important to consider whether very special circumstances exist in this case which outweigh the inappropriateness of the development. Paragraph 151 of the NPPF states that: 'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.' It is clear from the Planning Statement that the solar array will 'support the energy demand of Handleywood Farm' which includes the future residential development on the site. However, this proposal is not considered to result in wider environmental benefits due to its small scale serving a specific development.
- 6.1.8 No evidence has been put forward that the same site specific benefit arising from this development could not be achieved by incorporating PV into the design of the new dwellings or their curtilage, which would then remove the need to encroach into Green Belt land. It is also acknowledged that the approved scheme has not yet commenced on site and therefore the design parameters of the originally approved scheme could be reconsidered to account for the inclusion of solar within the built form.
- 6.1.10 With regard to 'openness', the application submission does not contain an assessment of Landscape Impact nor does it propose any mitigation measures such as supplementary planting, in addition to what is already present on site, albeit acknowledging that the

development is in any case inappropriate development contrary to Green Belt policy. The site is on the northern side of the public right of way, encroaching into open fields, such encroachment would have an adverse impact on openness. Incorporating PV solar into the new development would be unlikely to have any impact on openness over and above the approved scheme.

6.1.11 CLP12 Renewable Energy states that the Council will support proposals for renewable energy generation particularly where they have wider social, economic and environmental benefits, provided that the direct and cumulative adverse impacts of the proposals on the assets are acceptable. Due to the Green Belt impact and the very localised benefit of the development it is not considered that Policy CLP12 should be used to override Green Belt issues.

6.1.12 Summary

The site is in the Green Belt and as set out in Part 13 of the NPPF the solar array would constitute inappropriate development, contrary to Part 13 of the NPPF, CLP1 and CLP15 of the Local Plan. Whilst the Local Plan supports proposals for renewable energy (CLP12), this does not override Green Belt policy. It is also considered that the solar provision could be incorporated into the residential scheme. As set out above the scheme is not considered to qualify for 'very special circumstances' which would override the Green Belt harm.

6.2 **Design and Appearance of the Proposal (including landscape character)**

6.2.1 Notwithstanding that the development is inappropriate in principle, it is also considered reasonable to consider the visual impacts. Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

6.2.2 The existing site is not highly visible in the surrounding landscape, but is visible from the adjacent footpath which would adversely impact upon views of the green belt area from the public right of way. The proposed solar panels would be no higher than 1.8m and therefore as relatively low level structures these would not have a substantial

adverse impact upon the visual amenity of the wider area. However, even at low level the structures would have an adverse impact on landscape character from views at the public right of way and upon the openness of the Green Belt due to the encroachment into the green field area.

6.3 Residential Amenity

6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.

6.3.2 The proposal is not considered to lead to adverse impacts in terms of residential amenity. The construction phase is very short, which would not significantly impact the amenity of local residents or future residents. The proposal is acceptable in terms of residential amenity and is in line with policy CLP14, as well as the revised NPPF.

6.4 Highway Safety

6.4.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety. The Local Highway Authority were consulted on the scheme and requested more information on the construction phase of the development and how this would impact on the public right of way (PROW). The agent for the scheme responded that the existing public right of way is used as an access road for the farm. The agent stated that the construction period is short due to the size of the development, prefabricated design of the frames supported by ballast bags and with no ground works. Any vehicles related to the installation could be parked clear of the PROW.

6.4.2 It is considered that the impact of this minor development on the surrounding highway network would be negligible, and if minded to approved a condition relating to a construction management plan could be imposed. On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.5 Biodiversity

6.5.1 Local Plan policy CLP16 states that all development will "protect, enhance, and contribute to the management of the borough's

ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

- 6.5.2 The existing site is an agricultural field with a mature hedge to the north. Due to the design of the frames the installation (utilising ballast bags and frames) does not require major earthworks. The scheme does not result in a biodiversity loss, but additional planting could be included to ensure a biodiversity enhancement, but this would be dependent upon the intentions regarding any agricultural use, such as grazing, proposed alongside the solar installation. To accord with Policy CLP16 a landscaping and biodiversity enhancement condition could be imposed should the development be otherwise acceptable.

7.0 REPRESENTATIONS

- 7.1 No comments received.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 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.

- 8.2 The action in considering the application is in accordance with clearly established Planning law and the Council’s Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

- 9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and paragraph 38 of 2023 National

Planning Policy Framework (NPPF) as the proposed development conflicts with the NPPF and with 'up-to-date' policies of the Local Plan, as it is inappropriate development in the green belt.

10.0 **CONCLUSION**

10.1 The proposed development is not considered to be acceptable in relation policies CLP1 and CLP15 of the Local Plan and Part 13 of the NPPF, as it is inappropriate development in the green belt which does not qualify for very special circumstances. As such, this application is not considered to comply with the above mentioned local and national planning policies.

11.0 **RECOMMENDATION**

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

1. The development proposed is considered to be inappropriate development in the green belt as it does not meet or satisfy any of the 'exception' criteria as set out in paragraph 149 of the National Planning Policy Framework and there are no very special circumstances in paragraph 151 which can be accepted which outweigh the harm to the green belt area. The development by virtue of being inappropriate development in the green belt and due to its encroachment of the structures into an open green field will adversely impact upon the openness of the Green Belt within an area of the site which has previously remained open and undeveloped. It is considered that the development is contrary to the provisions of Policy CLP1 and criteria (a) and (f) of Policy CLP15 of the Chesterfield Local Plan 2018 – 2035 and the requirements of the National Planning Policy Framework Chapter 13.

Agenda Item 5

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	13 th November 2023
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by Development Management and Conservation Manager under the following Delegation references:- Planning Applications P020D, P200D to P250D, P270D to P320D, P350D to P370D, P390D, P420D to P440D Agricultural and Telecommunications P330D and P340D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

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

Planning Applications	Paul Staniforth	345781
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Delegated List
Planning Applications

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00174/CLU	Whittington	<p>Certificate of Lawfulness for the use of premises for the sale of firearms operating under Class E</p> <p>At Broomhill Farm Broomhill Road Old Whittington Chesterfield S41 9EA For Broomfield Farm Ltd</p>	GRANT	31/10/2023
CHE/23/00226/OUT	Whittington	<p>Erection of 1. detached single storey dwelling - (outline application for access with all other matters reserved)</p> <p>At 121 Handley Road New Whittington Chesterfield S43 2EF For Mr Andy Blank</p>	CP	26/10/2023
CHE/23/00312/DOC	Brimington South	<p>Discharge of conditions 3 (Measures to reduce additional surface run-off from the site), 5 (Verification report) and 19 (Prevention of discharge of water onto existing and proposed highway) of application CHE/20/00869/REM- Approval of reserved matters for 150 dwellings of CHE/18/00532/OUT -(Re-submission of CHE/16/00614/OUT (Outline application for proposed housing development with all matters reserved except the access)</p> <p>At Land To The North Of Northmoor View Chesterfield Brimington</p> <p>For Vistry Homes Yorkshire</p>	DPC	13/10/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00405/ADV	Spire	Installation of 1 post mounted directional sign At Verge At Junction Between Basil Close and Brewery Street Basil Close Chesterfield For CVS	REF	17/10/2023
CHE/23/00511/FUL	Staveley Central	Conversion of garage to living accommodation At 8 St Josephs Court Chesterfield Road Staveley Chesterfield S43 3GQ For Mrs Jennifer Whiting	CP	18/10/2023
CHE/23/00514/ADV	Whittington	1 illuminated totem sign and 3 illuminated fascia signs At Brimington Road North Industrial Park, Unit 2 Brimington Road North Chesterfield S41 9AJ For Suzuki G.B plc	CP	19/10/2023
CHE/23/00531/FUL	Staveley North	Detached garage At Woodward Eckington Road Staveley Chesterfield S43 3XZ For Mr Christian Greaves	REF	27/10/2023
CHE/23/00543/PRE	Dunston	Garage conversion to full time residential occupation by a family member and future change of use to a holiday let At Newbold Fields Cottage 30 Dunston Road Chesterfield S41 9RW For Lee & Trudi Thompson	PRNSUP	25/10/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00544/CLO	Rother	Two storey rear extension, hip-to-gable roof extension and rear dormer extension and addition of 3 rooflights to the front elevation. At 37 Kingsley Avenue Birdholme Chesterfield S40 2SZ For Taylor Mottershead Limited	GR	23/10/2023
CHE/23/00556/DOC	Dunston	Discharge of Condition 5 (Land contamination) of application CHE/21/00780/FUL- Extension to existing factory / workshop At Universal Hydraulics Ltd Carrwood Road Chesterfield Trading Estate Chesterfield S41 9QB For Challenger Hydraulics Limited	DPC	19/10/2023
CHE/23/00570/TPO	Whittington	T1 Lime Tree - Raise crown and clean crown of dead, damaged and diseased branches At 42 Lakeside Close Old Whittington Chesterfield S41 9TD For Mrs Anne Lawson	CP	18/10/2023
CHE/23/00572/FUL	Whittington Moor	Demolition of existing building and the creation of charging zone, erection of EV chargers, erection of canopy, LV panel and associated forecourt works. At Peveril Filling Station 300 Sheffield Road Whittington Moor S41 8JZ For Motor Fuel Group	CP	26/10/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00577/DOC	Dunston	Discharge of planning condition 4 (materials) of CHE/21/00414/FUL - Two storey rear extension and alterations At 20 Ringwood Avenue Newbold Chesterfield S41 8RB For Mrs L Smith	DPC	13/10/2023
CHE/23/00578/TPD	Brockwell	Single storey rear extension to provide disability adaptations At 101 Brockwell Lane Brockwell Chesterfield S40 4EG For Mr Gunn	PANR	19/10/2023
CHE/23/00610/TPO	Hasland	Beech (T20) and Oak (T21)- Shorten lateral branches to a suitable growth, remove epicormic growth and crown reduction to retain natural shape At 68 Mansfield Road Hasland Chesterfield S41 0JF For Mr Gary Yates	CP	17/10/2023
CHE/23/00613/TPO	Brimington North	T8 Sycamore- Crown thin and lift, T3 Oak- Crown lift and thin and T1 Maple- crown lift and thin At 15 High Street Brimington Chesterfield S43 1DE For Mr Matthew Bell	CP	24/10/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00614/CA	Brimington North	T2 Walnut- remove due to dead tree, T4 Sycamore- Crown thin and lift, T5 Oak- Crown thin and lift, T6 Larch- Remove due to overgrowth, T7 Conifer- Crown thin and lift, T9 Labernum- Remove and T10 Magnolia- Crown thin and lift At 15 High Street Brimington Chesterfield S43 1DE For Mr Matthew Bell	UP	24/10/2023
CHE/23/00615/TPO	Brampton West & Loundsley	Re-pollarding of 3 Lime trees, pruning just above previous pollarding point At 22 Netherleigh Road Ashgate Chesterfield S40 3QJ For Mr Gordon Dent	CP	17/10/2023
CHE/23/00620/NMA	Walton	Non material amendment to CHE/12/00568/FUL (Erection of first floor side extension formed above existing single storey entrance/w.c. area and rear single storey extension) to remove of skylight and insert north light, reposition windows and reduce from from 4 to 2 At 14 Somersby Avenue Walton S42 7LY For Mrs Josie Newton	CPNMAZ	26/10/2023
CHE/23/00622/DOC	Staveley South	Discharge of condition 3 (headlight screen) of CHE/23/00336/FUL- Levelling of frontage to form driveway At 9 Sycamore Road Hollingwood Chesterfield S43 2HQ For Miss Victoria Zhang	DPC	19/10/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00623/TPO	Dunston	T40 Oak- Crown reduce horizontal lateral scaffold branches by 2.5m minimum of to a suitable growing point to reduce encroachment over the properties of Orwins Close, 425 Newbold Rd and 7 Ambleside Close At Land Between 7 Ambleside Close and Orwins Close Newbold Road Newbold Chesterfield For Mr Gary McCarthy	CP	18/10/2023
CHE/23/00636/CA	Brimington North	Fell dead walnut tree At 15 High Street Brimington S43 1DE For Mr Matthew Bell	UP	19/10/2023
CHE/23/00653/TPO	Spire	T1 - Lime - Crown lift, dead wood and a light crown thin At 23 Tennyson Avenue Chesterfield S40 4SN For Mr Jake Eville	CP	31/10/2023

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	13 th November 2023
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by the Development Management and Conservation Manager under the following Delegation references:- Felling and Pruning of Trees P100D, P120D, P130D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

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

Applications to Fell or Prune Trees	Steve Perry	345791
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SECTION 1**APPLICATION TO FELL OR PRUNE TREES**

<u>CODE NO</u>	<u>DESCRIPTION OF PROPOSAL</u>	<u>TERMS OF DECISION</u>
CHE/23/00615/TPO TPO 4901.14 16/10/23	The pruning of 3 Lime trees within G1 on the Order Map and which are situated in the grounds of 22 Netherleigh Road	The re-pollarding of 3 Limes trees pruning back to just above previous pollarding points or pruning back to sound wood if required to form a new pollard point.
CHE/23/00610/TPO TPO 4901.160 16/10/23	The pruning of one Oak tree reference T20 and one Beech reference T21 on the Order Map and which are situated to the frontage of 68 Mansfield Road, Hasland	Consent is granted to the crown lifting of the lower branches, the removal of dead wood and epicormic growth and the reduction of branches growing towards the property and over the highway.
CHE/23/00623/TPO TPO 4901.112 18/10/23	The pruning of one Oak tree reference T40 on the Order Map and which is situated to the rear of Orwins Close, Newbold	Consent is granted the reduction of horizontal lateral branches by a maximum of 2 metres blending in with the upper crown, pruning back to suitable replacement branches and leaving an overall well-balanced crown.
CHE/23/00570/TPO TPO 4901.175 18/10/23	The pruning of one Lime tree reference T58 on the Order Map and which is situated to the rear of 42 Lakeside Close, Old Whittington	Consent is granted to the crown lifting of the tree by 3.5 metres and the removal of dead wood.

<p>CHE/23/00613/TPO TPO 4901.119 24/10/23</p>	<p>The pruning of three trees reference T1 Sycamore, T2 Oak and T3 Maple on the Order Map and which are situated in the grounds of 15 High Street, Brimington</p>	<p>Consent is granted to the crown lifting and crown thinning of the trees to allow more light into the property and garden area.</p>
<p>CHE/23/00653/TPO TPO 4901.261 31/11/23</p>	<p>The pruning of 1 Lime tree reference T10 on the Order Map and which is situated to the rear of 23 Tennyson Avenue</p>	<p>Consent is granted to crown lift by 4 metres, crown clean to remove dead wood and crown thin by 20% to allow more light through the crown.</p>

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/23/00636/CA The felling of one dead Walnut tree referred to as T2 on the submitted plan at 15 High Street, Brimington.	The trees are within the Brimington Conservation Area and the applicant wishes to fell the Walnut tree because it is dead and dropping branches onto the public highway.	Agreement to the felling of the tree which has been inspected on the 19 th October 2023 and found to be in a dangerous condition.	19/10/23
CHE/23/00614/CA The felling of 6 trees referred to as T6 Larch, T9 Laburnum, T10 Magnolia, T12 Sycamore and T14 & T15 Cherry and crown lift and crown thin 4 trees referred to as T1 & T4 Sycamore, T5 Oak, T7 Conifer and T13 Acer as shown on the submitted revised plan at 15 High Street, Brimington.	The trees are within the Brimington Conservation Area and the applicant wishes to fell the trees because of the poisonous seeds on the Laburnum at the children's nursery, the Larch due to its size in the garden, the Magnolia because of damage to the grade 2 listed property and 2 Cherry trees because of overhead cables and the Sycamore competing with the adjacent Oak tree. The pruning works are to clear the lower branches and allow more light into the garden area.	Agreement to the felling and pruning of trees. The felling and pruning of the trees will not result in any major loss of amenity or be detrimental to the character of the conservation area.	24/10/23

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APPEALS REPORT

MEETING: PLANNING COMMITTEE

DATE: 13th November 2023

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>
2/2581	Middlecroft & Poolsbrook ward	Mr T Singh	CHE/21/00381/FUL Extension at 26A Circular Road – Refusal	Officer delegation	23/2/23	Written Reps	
2/1257	Middlecroft & Poolsbrook ward	Mrs V Zheng	CHE/21/00778/FUL Change of Use and new build to create 20 apartments at Elm Tree Inn, High Street, Staveley – Refusal	Planning Committee against officer advice	28/04/23	Written Reps	
2/3583	St Helens ward	Woodall Homes Ltd	CHE/22/00604/FUL – Residential Development of land at Brimington Road, Waterside – 145 units – Non Determination	n/a	11/05/23	Public Inquiry	Appeal allowed 24.10.2023 – See appeal decision
2/1209	Moor ward	Plumco Ltd	CHE/23/00090/ADV – 48 sheet illuminated signage Refused	Officer delegation	23/05/23	Written Reps	
2/2150	Old Whittington Ward	Chris Eaton	CHE/23/00001/FUL Dwelling at 7 Ashcroft Drive, Old Whittington – Refusal	Officer delegation	9/6/23	Written Reps	Appeal Dismissed 19.10.2023 - See appeal decision
2/2403	Holmebrook ward	Mr Paul Servante	CHE/19/00534/RET – Play Equipment at 94 Chester Street – appeal against planning refusal dated 19/11/19 rather than	Committee authorised Enforcement Notice	9/6/23	Written Reps	

			Enforcement Notice				
2/1118	Whittington ward	Mr Paul Hardy (Vivid Outdoor Media Ltd	CHE/23/00026/ADV – Illuminated 48 sheet hoarding at Station Road, Whittington Moor - Refusal	Officer delegation	19/07/23	Written Reps	
2/	Brampton West and Loundsley Green	Mr Richard Ogle at	CHE/23/00167/FUL – Vehicle access at 192 Old Road. - Refusal	Officer delegation	29/8/23	Written Reps	
2/6155	Staveley North	Mr and Mrs Linathon	CHE/23/00287/FUL – extension of Oak Tree Barn, Bolsover Road Refusal	Officer delegation	26/9/23	Written Reps	
	Walton	Mr A Aldred	CHE/23/00375/FUL - Removal of existing leylandii hedge and replacement by brick panel wall	Officer delegation	19/6/23	Written Reps: Appeal received but no start date provided as yet	

FOR PUBLICATION Agenda Item 8

ENFORCEMENT REPORT

MEETING: PLANNING COMMITTEE
DATE: 13TH NOVEMBER 2023
REPORT BY: HEAD OF REGULATORY LAW
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD: As listed in the report

FOR PUBLICATION

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

BACKGROUND PAPERS

LOCATION: LEGAL SERVICES

1.0 PURPOSE OF REPORT

1.1 For non-exempt information about current formal enforcement progress.

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 Enforcement team.

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
HEAD OF REGULATORY LAW

PAUL STANIFORTH
DEVELOPMENT MANAGEMENT
& CONSERVATION MANAGER

Further information on this report from Gerard Rogers, Regulatory Law
Tel 01246 936471 or email gerard.rogers@chesterfield.gov.uk

ENFORCEMENT REPORT

Enforcements currently Authorised: 10

14 November 2019

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	
Breach of Condition Notice				<i>Total currently Authorised: 1</i>		<i>Authorised to Issue Average: days</i>				
York Street	2	23/09/2019 <i>53</i>	balcony, canopy and french doors	17/00800/FUL			Instructed	<input type="checkbox"/>	Ha	
Enforcement Notice				<i>Total currently Authorised: 7</i>		<i>Authorised to Issue Average: 248.5 days</i>				
Markham Road	Markham House	18/02/2008 <i>4,288</i>	storage of commercial vehicles		20/03/2008 <i>31</i>	18/04/2008 <i>4228</i>	20/10/2008 <i>4043</i>	Complied by 2009. Unauthorised use has started again. Prosecute.	<input type="checkbox"/>	HI <i>14/11/201</i>
Pottery Lane West	10	23/09/2019 <i>53</i>	unauthorised metal structure					Instructed	<input type="checkbox"/>	
Station Lane		03/04/2018 <i>591</i>	importation of materials - creation of hard surfacing		03/07/2018 <i>91</i>	08/08/2018 <i>464</i>	08/08/2019 <i>99</i>	Application for partial retention (CHE/19/00242/FUL) now approved subject to S106 agreement for wildlife habitat area (draft received)	<input type="checkbox"/>	BHW <i>04/11/201</i>

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	03/04/2018 591	importation of materials - industrial use		03/07/2018 91	08/08/2018 464	08/08/2019 99	Application for partial retention (CHE/19/00242/FUL) now approved subject to S106 agreement for wildlife habitat area (draft received)	<input type="checkbox"/> 04/11/201	
Station View Road	47 24/04/2017 935	unauthorised extension	16/00648	14/06/2019 781	22/07/2019 116	22/01/2020 -68	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.	<input checked="" type="checkbox"/> 24/06/201	SH

Part 39

Address		Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Walton Works		27/06/2016 1,236	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 looking to relocate to new premises.	<input type="checkbox"/> 04/11/201	Wa
York Street	2	09/10/2017 767	conversion and extension of roof space	17/00800/FUL				Flat conversion approved 03/04/18, condition requiring removal of balcony, canopy, french windows appealed, but dismissed 18/12/18. Not complied with condition. BCN authorised - see separate entry.	<input checked="" type="checkbox"/> 19/12/201	Ha

Planning Contravention Notice

Total currently Authorised: 1 Authorised to Issue Average: 0 days

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
Springwell Hill	13/06/2019 155	waste / engineering works		13/06/2019 0	13/06/2019 155	04/06/2019 164	Information about current ownership, materials imported and use of land. Opportunity to make representations. Notice complied with, no activity since summer and land reprofiled. Application likely.	<input checked="" type="checkbox"/> 04/11/201	BHW

Page 91

Stop Notice

Total currently Authorised: 1 Authorised to Issue Average: days

Walton Works	27/06/2016 1,236	use for war and horror style games of game play					See notes for Enforcement Notice.	<input type="checkbox"/> 03/03/201	Wa
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Action authorised by Committee except Breach of Condition, Planning Contravention, Section 215 Notices, Advertisement Discontinuance, prosecutions and urgent action which are authorised by officers

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

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

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Appeal Decision

Site visit made on 10 October 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/A1015/W/23/3318598

7 Ashcroft Drive, Old Whittington, Derbyshire S41 9NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Eaton against the decision of Chesterfield Borough Council.
 - The application Ref CHE/23/00001/FUL, dated 1 January 2023, was refused by notice dated 23 February 2023.
 - The development is described as “proposed new two storey house and associated works on land at 7 Ashcroft Drive, Old Whittington, Chesterfield with internal floor area of 95sm”.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council’s reasons for refusal refer to the Council’s Residential Supplementary Planning Guidance. However, the document is titled “Successful Places: A Guide to Sustainable Housing Layout and Design, Supplementary Planning Document” adopted 2013 (‘the SPD’). I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area;
 - b) the living conditions of future occupiers, with particular reference to private garden areas; and
 - c) the living conditions of the occupiers of 9 Ashcroft Drive, with particular reference to outlook and loss of light.

Reasons

Character and Appearance

4. The surrounding area comprises two-storey semi-detached and terraced dwellings, rendered, with similar eaves and ridge heights and hipped roofs. While some extensions and alterations have taken place, the dwellings still maintain a largely uniform character and appearance. The dwellings are set back from the surrounding roads with open-plan front gardens and driveways and have a dominant building line. Interspersed with the dwellings are areas of open space, particularly to the corners of road junctions, creating a spacious character to the area. Some of the open spaces have been enclosed and

integrated into the gardens of the adjacent houses, however, where this has occurred, they tend to be occupied by fences, hedges and driveways which, due to their limited height, still maintain a sense of openness.

5. The proposed dwelling, while being two-storeys in height, would be detached and would exceed the eaves height of the adjacent terrace. The proposed dwelling would erode the open space on the corner of the road and would be sited a significant distance forward of 7 and 9 Ashcroft Drive, inconsistent with the dominant building lines. The scale and siting of the proposed dwelling would result in a prominent and dominant building that would be incongruous with the surrounding area. The roof design, use of red brick and the inclusion of a first floor corner balcony would not reflect the character or appearance of existing dwellings. The design and materials of the proposed dwelling would therefore appear alien within the context of the surrounding area.
6. The appellant has directed me to photographs to demonstrate that the surrounding area has a varied character and that areas of open space have been built upon without harm to the area's character and appearance. However, for the reasons detailed above, and in reference to what I saw during my site visit, I disagree with the appellant's view on these matters. Furthermore, it is unclear whether planning permission was obtained for these developments or indeed required. In any event, I must determine each case on its own merits.
7. In reference to the first main issue, the proposed development would harm the character and appearance of the surrounding area. It would conflict with Policy CLP20 of the Chesterfield Borough Local Plan, adopted 2020 ('the LP') which, amongst other things, seeks to ensure that developments respond positively to the character of the site and surroundings and respect the local distinctiveness of its context. It would also conflict with paragraph 130 of the National Planning Policy Framework ('the Framework') that, amongst other things, seeks to ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting. Furthermore, it would conflict with the SPD.

Living Conditions of Future Occupiers

8. The proposed dwelling would have three bedrooms and therefore is likely to be occupied by a family. The SPD states that a three-bedroom dwelling should normally have a minimum single area of private open space, excluding parking areas and garage spaces of 70sqm, while it also states that family houses are likely to require larger gardens, preferably in the range of 70-100sqm, but not normally less than 50sqm. The main parties dispute the size of the proposed front/side garden area. However, the information before me suggests that the main parties agree that the rear garden area would equate to approximately 20sqm.
9. The front/side garden would be the larger of the two spaces. Even if it complied with the size criteria detailed within the SPD, it would not be private as it would be in proximity of the pavement and road. It is proposed to plant a hedgerow around its boundaries which could aid privacy, however, this would likely cause shadowing to the garden and would take a long time to grow to a sufficient height and density. Furthermore, it is an irregular shape and there is no direct access to it from the ground floor rooms of the proposed dwelling or the dwelling's main living areas. The garden to the rear of the proposed dwelling

would be private. However, it is significantly smaller than the minimum size for private open space for family houses, particularly those with three bedrooms; is of an irregular shape; and due to its limited size, it could not adequately function as private open space for a family house. Furthermore, it is not directly accessible from the ground floor rooms of the proposed dwelling or the dwelling's main living areas.

10. The Council does not include the proposed balcony in its calculations. However, the SPD is clear that the minimum area of private open space should be a single area and not an amalgamation of separate areas of open space within the proposed development. Even if it could be included, the balcony would be on the front corner of the proposed dwelling, overlooking the road and therefore would not be private.
11. In respect of the second main issue, the proposed development would have an adverse effect on the living conditions of future occupiers, with particular reference to private garden areas. It would conflict with Policies CLP14 and CLP20 of the LP which, amongst other things, seek to ensure that developments have an acceptable impact on the amenity of users. It would also conflict with paragraph 130 of the Framework that, amongst other things, seeks to create places with a high standard of amenity for future users. Furthermore, it would conflict with the SPD.

Living Conditions of the Occupiers of 9 Ashcroft Drive – Outlook and Loss of Light

12. The proposed dwelling's rear elevation would directly face the side elevation and front/side garden of 9 Ashcroft Drive. However, the fenestration within the side elevation of No 9 consists of a door and two first floor windows that appear to be obscure glazed and/or serve rooms that are not frequently used. Furthermore, the siting of the proposed dwelling would ensure that it would not adversely harm the outlook from No 9's front or rear windows.
13. The proposed dwelling would have the potential to cause some overshadowing to the side garden of No 9. However, this would be restricted to later in the day and would not affect the patio/seating area immediately to the rear of No 9 which would be more frequently used, particularly as it faces due south. The rooms served by windows in the side elevation of No 9 could also be affected by overshadowing from the proposed dwelling later in the day, however, these windows serve rooms that are not likely to be frequently used and therefore would not be adversely affected.
14. In respect of the third main issue, the proposed development would not adversely harm the living conditions of the occupiers of 9 Ashcroft Drive, with particular reference to outlook and a loss of light. It would comply with Policies CLP14 and CLP20 of the LP that, amongst other things, seek to have an acceptable impact on the amenity of neighbours. It would also comply with paragraph 130 of the Framework that, amongst other things, seeks to create places with a high standard of amenity for existing users. Furthermore, it would adhere to the SPD.

Other Matters

15. The provision of one dwelling weighs in favour of the proposal and would make a contribution, albeit small, to the Government's objective of significantly boosting the supply of new homes. There would be some short-term

employment through the construction phase of the proposed development. The inclusion of photovoltaic arrays on the roof of the proposed dwelling and an air source heat pump provides modest benefits to the proposed development.

16. While the proposed dwelling would be constructed to high insulation standards, it is unclear if this would be above current Building Regulations standards. While the appellant considers the proposed green roofs would counter ozone depletion, this has not been supported by evidence. I acknowledge that the Highways Authority has not raised an objection to the proposed development; that a net gain in biodiversity could be achieved; that the appeal site is within an area of the lowest probability of flooding; and that the appeal site is in a suitable location in proximity of services and facilities. However, these are neutral matters.
17. Consequently, the modest benefits would not outweigh the harm I have identified to the character and appearance of the surrounding area and the living conditions of future occupiers of the proposed development.
18. The Council's officer report raises concern regarding the obscure glazed first floor kitchen window and the proximity of the proposed dwelling to 9 Ashcroft Drive adversely affecting the living conditions of future occupiers of the proposed dwelling with particular reference to outlook and loss of light; and the proximity of the proposed dwelling and the positioning of fenestration in the rear elevation adversely affecting the living conditions of the occupiers of No 9 with particular reference to privacy and a perception of overlooking. However, these matters were not included within the Council's reasons for refusal. As I am dismissing the appeal, I do not need to consider these additional matters further.

Conclusion

19. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR



Appeal Decision

Inquiry Held on 19 September 2023

Site visit made on 20 September 2023

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/A1015/W/23/3321962

Tapton Business Park, Brimington Road, Tapton, Derbyshire, S41 7UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Darren Abbott of Woodall Homes Ltd against the decision of Chesterfield Borough Council.
- The application Ref CHE/22/00604/FUL, is dated 16 August 2022.
- The development proposed is described as "*residential development comprising demolition of all existing buildings, to be replaced by the erection of 84 no. dwellings and 41 no. apartments, 20 Flats over Garages (FOG) together with ground floor commercial units (Use Class E), landscaping, infrastructure and associated works*".

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising demolition of all existing buildings, to be replaced by the erection of 83 no. dwellings and 41 no. apartments, 20 Flats over Garages together with ground floor commercial units (Use Class E), landscaping, infrastructure and associated works at Tapton Business Park, Brimington Road, Tapton, Derbyshire, S41 7UP in accordance with the terms of the application, Ref CHE/22/00604/FUL, dated 16 August 2022, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The description of development given in my formal decision states that 83 dwellings are proposed, rather than the 84 given on the planning application form. This reflects amendments that were made to the scheme at application stage and I have considered the appeal on that basis.

Main Issue

3. The main issue is whether the development would be consistent with local planning policy, with particular regard to accessibility and ensuring the comprehensive development of the wider strategic site.

Reasons

4. The appeal site is located within the wider 'Chesterfield Waterside and the Potteries' corridor, which encompasses a large area of previously developed land alongside the River Rother. It is subject to Policy SS3 of the Chesterfield

Borough Local Plan (2020), which states that the wider Waterside site is suitable for up to 1,550 new homes, 30,000 square metres of office space, and other uses. Policy SS3 requires that proposals within this area contribute towards *"improving access to the site including enhancing the footpath and cycle network through the site and making links to the wider Trans Pennine Trail and Chesterfield Railway Station"*. It further states that the area should be *"comprehensively developed"* and that proposals *"will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement"*.

5. The appeal is against the Council's non-determination of the application. However, prior to the Inquiry, the Council's Planning Committee resolved that it would have been minded to approve the application subject to 3 outstanding issues being addressed in a s106 agreement. These were, firstly, to secure the improvement of footpaths FP100 and FP17, secondly, to agree a process for securing the necessary evidence to ascertain the ownership of an adjoining strip of unregistered land, and thirdly, to secure a proportion of any additional profit towards off-site infrastructure. A s106 agreement was subsequently agreed that addressed each of these matters, and the Council's position at the Inquiry was that the appeal should be allowed subject to that agreement.
6. The s106 agreement requires that the site owner upgrade and widen footpaths FP100 and FP17, including the steps leading to Brimington Road. These footpaths are currently narrow, poorly surfaced, and subject to encroachment from plants and bushes. The upgrading of these footpaths is necessary to ensure that the site is served by appropriate walking and cycling routes along the River Rother. These improvements also relate solely to footpaths that adjoin the site boundary and are therefore directly related to the development, and reasonably related to it in scale and kind.
7. The s106 agreement also includes provisions relating to a strip of unregistered land between the western edge of the site and the River Rother. It requires the owner to submit an Additional Land Investigation Strategy to the Council, and then use reasonable endeavours to acquire a registerable interest in the freehold. At present, the ownership of this land is unclear, although much of it is currently utilised by the existing industrial use at the site. Were it to be kept in its current condition then it would leave an unkempt, unmanaged area of land in a prominent position within the River Rother corridor. Accordingly, I consider that these provisions are necessary, directly related to the development, and reasonably related to it in scale and kind.
8. The s106 agreement also requires the site owner to safeguard an area along the north west corner of the site for a replacement river bridge. In this regard, the existing pedestrian bridge is narrow and of poor quality, and a new bridge is clearly required to provide an adequate connection between the appeal site and the services, facilities, and footpath network on the other side of the river. This is the logical place for a replacement bridge given its position between the existing path to Brimington Road to the east, and the footbridge over the A61 to the west, which leads to the nearest primary school. The requirement is therefore necessary and directly related to the development, and I am satisfied that it is reasonably related to it in scale and kind.
9. In addition, the s106 agreement requires that a financial assessment be submitted to the Council prior to the occupation of the 139th dwelling. If this

assessment were to identify a surplus, then it would trigger a further payment to improve nearby bus stops, the Brewery Street junction, the adjoining unregistered land, to provide a replacement river bridge, and an off-site affordable housing contribution. Whilst the Chesterfield Borough Local Plan (2020) does not set out the circumstances where a viability review mechanism may be appropriate, in my view, the circumstances in this case justify such an approach. In this regard, a number of the viability assumptions are likely to change over the construction period, and the infrastructural improvements are of key importance to the delivery of the wider Waterside site. I further note that Planning Practice Guidance states that viability review mechanisms can be a tool *"to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project"* (Paragraph: 10-009-20190509).

10. Policy SS3 of the Chesterfield Borough Local Plan (2020) states that *"planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement"*. Whilst the outline permission that once covered the entire Waterside site has now lapsed, this requirement clearly applies to subsequent applications within this area. Accordingly, contributions towards infrastructural improvements necessitated by the wider Waterside site should be required from individual applications such as this.
11. Of these contributions, the bus stop sum relates to 2 bus stops on either side of Brimington Road in close proximity to the appeal site. At present, these simply consist of a sign and timetable attached to a pole. Given the number of dwellings that would be introduced, the development is likely to significantly increase their usage. The contribution would therefore be directly related to the development, and I am satisfied that it would be fairly and reasonably related to it in scale and kind. Moreover, given the basic standard of these bus stops at present, it would be necessary to incentivise public transport usage.
12. The Brewery Street junction sum relates to works to provide a light controlled junction at the Brewery Street and Brimington Road junction. This is necessitated by the cumulative strain placed upon this junction by planned development within the Waterside area, including the appeal site. In this regard, it is necessary that a proportionate contribution is made to these works, and I am satisfied that the proposed sum would be reasonably related in scale and kind to the development.
13. The river bridge sum relates to a replacement footbridge over the River Rother. For the reasons set out above, the provision of a bridge is necessary and directly related to the development, and the north west corner of the site is the most appropriate place for it to be located. In light of this, and given that future occupiers would be reliant on the bridge to access services and facilities on the other side of the A61, I am satisfied that the proposed sum would be reasonably related to the development in scale and kind.
14. The offsite affordable housing sum would be necessary to provide a policy compliant level of affordable housing for the development. The proposed sum has been agreed based on a standard calculation, and it is therefore directly related to the development, and reasonably related to it in scale and kind.

15. Finally, the additional land contribution would be necessary were the Council to compulsorily purchase this land, and landscape and manage it to an appropriate standard. This would be a last resort should all other attempts to acquire the land fail, and the sum would revert to the appellant if it were not needed for this purpose. In these circumstances, I am satisfied that the sum is necessary, directly related to the development, and reasonably related to it in scale and kind.
16. Should the financial assessment find that there is no additional surplus for these latter contributions, then they would not be funded by the development. In terms of affordable housing provision, such an approach is envisaged under Policy CLP4. However, there is no such provision regarding the bus stop, river bridge, Brewery Street junction, and unregistered land sums. Notwithstanding this, the development would provide very significant benefits, including to the regeneration of the wider Waterside area, the provision of new housing (including affordable housing), and the creation of jobs and economic activity. In my view, these benefits would outweigh the non-provision of these infrastructural contributions if, and only if, it were not viable to provide them. Moreover, the review mechanism allows for this to be revisited at a later date. At the Inquiry, the Council detailed a number of alternative funding sources that could be pursued, albeit this would be at the expense of other infrastructural priorities. In the event that the development was unable to fund these improvements, then those routes would have to be pursued.
17. For the above reasons, and in light of the s106 agreement, I conclude that the development would be consistent with local planning policy, with particular regard to accessibility and ensuring the comprehensive development of the wider strategic site. It would therefore accord with Policies SS3, CLP15 and CLP22 of the Chesterfield Borough Local Plan (2020). These policies seek to ensure, amongst other things, that new development supports the comprehensive development of the Chesterfield Waterside and the Potteries corridor, protects and enhances the green infrastructure network, and delivers improvements to walking and cycling facilities.

Other Matter

18. The appeal proposal would connect to and improve the nearby footpath network along the River Rother. There is also an existing 3 metre wide pedestrian and cycling route along the western bank of the river, which will be extended through the development of other land within the corridor. The appeal site would have good access to this route and other walking and cycling routes into Chesterfield town centre. Accordingly, I consider the 2 metre width of the proposed route along the eastern bank of the river to be acceptable. The completion of that route would also be dependent on the development of land to the south outside of the appeal site boundary.

Conditions

19. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Conditions requiring the submission and approval of a Construction Environmental Management Plan and a Construction Method Statement are necessary to protect residential amenity and biodiversity interests during the construction

- period, and to ensure highway safety is not prejudiced. Conditions relating to surface water flood risk are also necessary to ensure that the site is appropriately drained, both during the construction phase and post-completion. Further conditions relating to contamination and training are necessary to ensure the site is appropriately remediated and to comply with Policy CLP6 of the Chesterfield Borough Local Plan (2020). These conditions are pre-commencement in nature as they either relate to the construction process or to works below ground level. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to these conditions in writing.
20. A condition relating to historic coal mining activity is necessary to ensure any associated land instability or contamination issues are addressed. A condition requiring the submission and approval of a Landscape and Biodiversity Enhancement and Management Plan is necessary to ensure that the proposed onsite habitats are appropriately managed and monitored. Further conditions relating to landscaping works, materials, and the proposed art installation are necessary to ensure a high standard of development. An additional condition relating to adaptable and accessible homes is necessary to comply with Policy CL4 of the Chesterfield Borough Local Plan (2020).
21. Conditions relating to the vehicular access, parking and turning facilities for each dwelling, and requiring the submission and approval of a drainage verification report, are necessary to ensure that these facilities are provided. Conditions relating to the proposed access to Brimington Road and the construction of the carriageways/footways are necessary to ensure a safe and suitable access to the development. Further conditions relating to wheel washing facilities, the submitted travel plan, and restricting permitted development rights are necessary in the interests of local amenity, to encourage sustainable travel to and from the site, and to mitigate flood risk. Additional conditions relating to the "trim trail" equipment and the 2 metre wide route along the western boundary of the site are necessary to ensure that these facilities are provided. Finally, a condition relating to external lighting is necessary to avoid adverse effects to light-sensitive species, including bats.
22. Separately, a proposed condition relating to boundary treatments to plot 120 is unnecessary as this detail has already been provided in the Material and Boundary Treatment Plan. A proposed condition restricting the Class E units to convenience retail only is also unnecessary, as these would be of a size and in a location that would be most suited to meeting localised needs in any case. In this regard, they would be too small to accommodate many of the uses allowed for under Class E and would be below any impact assessment threshold set out in the Chesterfield Borough Local Plan (2020). Moreover, this condition would prevent other uses within Class E that would also serve the day-to-day needs of future occupiers, such as a chemist.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - Apartments & Retail Units Elevations Ref n1950/100-00;
 - Apartments & Retail Units Floor Plans Ref n1950/100-01;
 - Apartments & Retail Units Floor Plans Ref n1950/100-02;
 - Apartments & Retail Units Floor Plans Ref n1950/100-03;
 - FOG 1-A Elevations Ref n1950/100-00 rev B;
 - FOG 1-A Floor Plans Ref n1950/100-01 rev B;
 - FOG 1-B Elevations Ref n1950/100-00 rev A;
 - FOG 1-B Floor Plans Ref n1950/100-01 rev A;
 - FOG 2 Elevations Ref n1950/100-00 rev A;
 - FOG 2 Floor Plans Ref n1950/100-01 rev A;
 - House Type 1 (AS/MID/OP) Elevations Ref n1950/100-00;
 - House Type 1 (AS/MID/OP) Elevations Ref n1950/100-01;
 - House Type 1 (AS/MID/OP) Elevations Ref n1950/100-02;
 - House Type 1 (AS/MID/OP) Floor Plans Ref n1950/100-03
 - House Type 1 (AS/MID/OP) Floor Plans Ref n1950/100-04
 - House Type 1 (AS/MID/OP) Floor Plans Ref n1950/100-05;
 - House Type 2-A Floor Plans and Elevations Ref n1950/100-00;
 - House Type 2-B Floor Plans and Elevations Ref n1950/100-00;
 - House Type 2-C Floor Plans and Elevations Ref n1950/100-00;
 - House Type 2-D Floor Plans and Elevations Ref n1950/100-00 rev A;
 - House Type 3 Elevations Ref n1950/100-00;
 - House Type 3 Floor Plans Ref n1950/100-01;
 - House Type 4-A Elevations Ref n1950/100-00;
 - House Type 4-A Elevations Ref n1950/100-01;
 - House Type 4-A Floor Plans Ref n1950/100-02;
 - House Type 4-B Elevations Ref n1950/100-00;
 - House Type 4-B Elevations Ref n1950/100-01;
 - House Type 4-B Floor Plans Ref n1950/100-02;
 - House Type 5 (AS/MID/OP) Elevations Ref n1950/100-00 rev A;
 - House Type 5 (AS/MID/OP) Elevations Ref n1950/100-01 rev A;
 - House Type 5 (AS/MID/OP) Elevations Ref n1950/100-02 rev A;
 - House Type 5 (AS/MID/OP) Floor Plans Ref n1950/100-03 rev A;
 - House Type 5 (AS/MID/OP) Floor Plans Ref n1950/100-04 rev A;
 - House Type 5 (AS/MID/OP) Floor Plans Ref n1950/100-05 rev A;
 - Quad Block Elevations Ref n1950/100-00 rev A;
 - Quad Block Elevations Ref n1950/100-01 rev A;
 - Quad Block Floor Plans Ref n1950/100-02 rev A;
 - Quad Block Floor Plans Ref n1950/100-03 rev A;
 - Planning Layout Ref n1950/008 rev G;
 - Materials and Boundary Treatment Plan Ref n1950/600 rev D;
 - Site Sections Ref n1950/300 rev B;
 - Site Section Locations Ref n1950/301 rev B;
 - On-Plot Detailed Landscape Plan (Sheet 1 of 2) (FPCR) Ref 10896-FPCR-XX-XXDRL0002 S03 P05;
 - On-Plot Detailed Landscape Plan (Sheet 1 of 2) (FPCR) Ref 10896-FPCR-XX-XXDRL0003 S03 P05;

- Public Open Space (POS) Proposals and Softworks Schedules (FPCR) Ref 10896-FPCR-XX-XX-DR-L-0001 S03 P05; and
- Proposed Access General Arrangement Ref CW-BWB-HML-00-DR-TR-101 S2 rev P2.

Pre-commencement conditions

- 3) No development shall take place until a detailed design and associated management and maintenance plan for the proposed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the principles set out within:
- i) The submitted Flood Risk Assessment (Avie Consulting Ltd, March 2023); and
 - ii) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The development shall thereafter be constructed and maintained in accordance with the approved details.

- 4) No development shall take place until a scheme to manage surface water during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of any works that would lead to an increase in surface water run-off from the site during the construction phase.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) on-site turning facilities for delivery vehicles;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development; and
 - v) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development shall take place until a Construction Environmental Management Plan ('CEMP') relating to biodiversity has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be based on the recommendations in the submitted Ecological Appraisal (FPCR, August 2022) and shall include the following:
- i) A risk assessment of construction activities in relation to wildlife and habitats;
 - ii) Identification of "biodiversity protection zones";
 - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - iv) The location and timing of sensitive works to avoid harm to biodiversity features;

- v) The times during construction when specialist ecologists need to be present on site to oversee works;
- vi) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and
- vii) The use of protective fencing and wildlife safety measures clearly marked on site plans.

The development shall thereafter be constructed in accordance with the approved CEMP.

- 7) No development shall take place until a scheme to address the further work identified at section 7.0 of the submitted Phase 1 Geotechnical and Geo-Environmental Site Investigation (Eastwood and Partners, March 2022, Ref 46965-001) has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 30 days of the report being completed and shall be approved in writing by the Local Planning Authority.
- 8) No development shall take place until an Employment and Training Scheme has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall include a strategy to promote local supply chain, employment, and training opportunities throughout the construction of the development. The approved scheme shall be adhered to throughout the construction process.

No development other than demolition conditions

- 9) No development other than demolition shall take place until an assessment of the risks posed to the development by past coal mining activity has been submitted to and approved in writing by the Local Planning Authority. This assessment shall include a scheme of intrusive investigations, which once approved, shall be undertaken before any development other than demolition takes place. If any remediation works and/or mitigation measures to address land instability arising from coal mining legacy are necessary then a report specifying the measures to be taken, including the timescale, to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.
- 10) No development other than demolition shall take place until a Landscape and Biodiversity Enhancement and Management Plan ('LBEMP') has been

submitted to and approved in writing by the Local Planning Authority. The submitted LBEMP shall be based on recommendations in the submitted Biodiversity Net Gain Report and metric (FPCR, December 2022), and shall set out how the development will achieve no less than a 68.35% net gain in habitat units. It shall include:

- i) Descriptions and locations of features to be retained, created, enhanced and managed;
- ii) Aims and objectives of management, in line with desired habitat conditions detailed in the metric;
- iii) Appropriate management methods and practices to achieve these aims and objectives;
- iv) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity);
- v) Details of the body or organization responsible for implementation of the plan;
- vi) A monitoring schedule to assess the success of the habitat creation and enhancement measures;
- vii) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met;
- viii) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022; and
- ix) Provision for a statement of compliance to be submitted upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanisms by which the implementation of the LBEMP will be secured by the developer with the management body(ies) responsible for its delivery. The LBEMP shall be implemented as approved.

No development above ground level conditions

- 11) No development shall take place above ground level until details of all proposed walling, roofing, and fenestration materials has been submitted to and approved in writing by the Local Planning Authority. The approved materials shall thereafter be used in the construction of the development.

Within 6 months of commencement conditions

- 12) Within 6 months of commencement of the development, details of the proposed hard landscape works shall be submitted to and approved in writing by the Local Planning Authority. These shall include:
 - i) proposed finished land levels or contours;
 - ii) means of enclosure along the southern boundary of the site;
 - iii) refuse or other storage units for the Class E units;
 - iv) any bin collection areas;
 - v) signage; and
 - vi) seating.
- 13) Within 6 months of commencement of the development, an implementation programme for both the approved hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or

plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 14) Within 6 months of commencement of the development, details of the proposed art feature shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented as part of the landscaping scheme in accordance with the implementation programme approved under condition 13. The Art feature shall thereafter be retained.
- 15) Within 6 months of commencement of the development, a scheme to demonstrate that 25% of the dwellings across the site, including across tenures, shall be built to Requirement M4(2) (accessible and adaptable dwellings) of the Building Regulations, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented as part of the development and shall thereafter be retained.

Pre-occupation conditions

- 16) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that the drainage system has been constructed as per the approved scheme (or detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 17) Prior to the first occupation of each dwelling, the vehicular access, parking and turning facilities shall be constructed for that dwelling in accordance with the approved plans. The vehicular access, parking and turning facilities shall thereafter be retained for those purposes.

Other conditions

- 18) The proposed access to Brimington Road shall be laid out, provided with visibility sightlines as shown on plan ref CW-BWB-HML-00-DR-TR-101 S2 rev P2, and fully completed prior to the first occupation of any dwelling taking access from that junction. There shall be no obstruction between the sightline and the adjacent carriageway edge exceeding 1 metre in height above the carriageway channel level. The area in advance of the visibility sightlines shall be laid out as part of the street and shall not form part of any plot or other subdivision of the site and shall remain as such thereafter.
- 19) The carriageways of the proposed estate roads shall be constructed 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 carriageways and footways shall be constructed up to and including base course surfacing so that each dwelling prior to occupation has a consolidated and surfaced carriageway and footway between it and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway.

- The carriageways, footways and footpaths in between each dwelling and the existing highway shall be completed with final surface course within twelve months from the occupation of that dwelling.
- 20) Throughout the construction period vehicle wheel cleaning facilities shall be provided and utilised in order to prevent the deposition of mud or other extraneous material on the public highway.
 - 21) The Measures, Incentives and Actions set out in sections 6 and 8 of the submitted Travel Plan (BWB, dated 15th December 2022) shall be implemented prior to the first occupation of the 108th dwelling on the site and shall thereafter be monitored and reviewed in accordance with section 7 of the submitted Travel Plan.
 - 22) Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015, dwelling types HT1, HT2 (A, B, C and D), HT3, HT4 (A and B), HT5, FOG1 (A and B) and FOG2 shall be limited to parking and non-habitable uses only on the lower ground floors.
 - 23) Prior to installation of the "trim trail equipment" shown on the approved plans, full details of said equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and made available for use prior to the first occupation of the 108th dwelling on the site. These facilities shall thereafter be retained.
 - 24) The 2 metre wide route along the western boundary of the site from the junction of Rotherside Road and Main street, as shown on approved layout plan n 1950/008 Rev G, shall be fully completed to the southern site ownership boundary line prior to the first occupation of the 108th dwelling on the site, and shall thereafter be retained.
 - 25) Prior to the installation of external lighting fixtures, a detailed lighting strategy including an implementation timescale shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife, with particular consideration given to the River Rother corridor. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. The approved lighting details and measures shall thereafter be installed in accordance with the approved implementation timescale.

APPEARANCES

FOR THE APPELLANT:

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of Counsel

instructed by DLP Planning

She called:

Jim Lomas BA (Hons) MRTPI
Paul Wakefield

Director, DLP Planning
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FOR THE LOCAL PLANNING AUTHORITY:

James Corbet Burcher, No. 5 Chambers
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instructed by Chesterfield Borough
Council

He called:

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Development Management and
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INTERESTED PARTIES:

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INQUIRY DOCUMENTS

- ID1 Appellant's opening statement and list of appearances
- ID2 Council's opening statement
- ID3 Speaking note submitted by Transition Chesterfield
- ID4 Regulation 122 compliance note submitted by the Council
- ID5 Chesterfield Waterside Revised Masterplan – Draft (March 2023)
- ID6 Council's closing submissions

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