

Case Officer: Sarah Kay
Tel. No: (01246) 345786
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File No: CHE/17/00067/COU
Plot No: 2/3532

ITEM 1

PROPOSED CHANGE OF USE FROM MEDICAL CENTRE TO 5 NO. RESIDENTIAL UNITS AT 1 TENNYSON AVENUE, CHESTERFIELD, DERBYSHIRE, S40 4SN FOR MR MATTHEW LITTLE

Local Plan: Unallocated
Ward: Brockwell

1.0 CONSULTATIONS

DCC Highways	Comments received 23/02/2017 – see report
Environmental Services	Comments received 21/02/2017 – no objections
Forward Planning Team	Comments received 28/02/2017 – see report
Tree Officer	No comments received
Conservation Officer	Comments received 01/03/2017 – see report
Ward Members	No comments received
Site Notice / Neighbours	Two letters of representation received

2.0 THE SITE

- 2.1 The application site relates to 1 Tennyson Avenue, a large semi-detached two and half storey property which is currently vacant but was previously occupied / operated as a medical centre (Sexual Health Clinic).
- 2.2 The property is red brick built, with modern interlocking roof tiles and white uPVC windows, although the front elevation retains

some of its original character being double bay fronted with a central fan lit feature doorway. To the rear the property has been subject to extension including two storey and single storey additions as well as the creation of an access ramp and external shutters (which were connected with the location of the main reception to the previous medical centre use).

- 2.3 Boundaries to all aspects are made up of red brick walls of varying height, with the Tennyson Avenue frontage and rear driveway also incorporating feature railings.
- 2.4 The application site benefits from an existing vehicular access from Tennyson Avenue but it also has a right of way access onto the private driveway to the rear of the site leading on to Saltergate. The surrounding curtilage is predominantly hard surfaced (both front and rear) and there is driveway / access link between both areas of hardstanding. Previously the rear area of hardstanding served as car parking for the former medical centre use.



- 3.0 **RELEVANT SITE HISTORY**
- 3.1 CHE/0588/0404 - Permission for change of use to doctors surgery. Approved on 15/07/1988.
- 3.2 CHE/1189/0820 - Permission for extension to doctors surgery and construction of access. Approved on 31/01/1990.
- 3.3 CHE/0991/0576 – Non illuminated sign. Refused on 09/10/1991.
- 3.4 CHE/0292/0142 - First floor extension to medical centre. Approved on 14/05/1992.

- 3.5 CHE/0892/0522 - Ground floor office/reception extension. Refused on 15/10/1992.
- 3.6 CHE/0396/0118 - Conversion of roof space to office involving velux roof lights. Approved on 18/04/1996.
- 3.7 CHE/0996/0493 - Erection of security shutters. Approved on 15/10/1996.
- 3.8 CHE/10/00145/ADV - 1 (1200 x 600) ID sign on building gable, 1 (1800 x 600) sign under existing Saltergate HC sign on road side and 1 (1000 x 400) sign under existing Avenue House Surgery sign (revised red outline on location plan received 17th May 2010). Approved on 16/07/2010.

4.0 **THE PROPOSAL**

- 4.1 This is an application, submitted in full, for the proposed change of use of the property from a medical centre (Use Class D1) to 5 no. self-contained flats / apartments (Use Class C3).
- 4.2 The proposed plans submitted indicate that there will be 2 no. units at ground floor (1 no. one bedroom and 1 no. two bedroom); 2 no. units at first floor (1 no. one bedroom and 1 no. two bedroom with external terrace access); and 1 no. unit at second floor (1 no. bedroom).
- 4.3 The applicant has indicated their intention to retain both vehicular access points (off Tennyson Avenue and Saltergate driveway) and utilise the area to the front and rear of the site for residents parking (although there is no site layout plan submitted with the application) – email from applicant 16/02/2017.

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

- 5.1.1 The site is situated within the built settlement of Brockwell in an area that is predominantly residential in nature; however adjacent and along Saltergate there are a number of commercial properties as well which reflect the edge of centre location. Having regard to the nature of the application policies CS1, CS2, CS18 and CS20 of

the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development**

National Planning Policy Framework

5.2.1 The **NPPF** requires that housing applications should be considered in the context of the presumption in favour of sustainable development. This includes supporting planning applications for change to residential uses provided that there are not strong economic reasons why such development would be inappropriate.

5.2.2 The **NPPF** also recognises that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings public and private spaces, and wider areas development schemes (para 57)

Core Strategy

5.2.3 The Core Strategy reflects the NPPF through its approach to town centres and design.

5.2.4 **Policy CS1** states that the overall approach to growth will be to concentrate new development within walking distance of centre and to focus on areas that need regenerating. The site is within the town centre boundary and within walking and cycling distance of all town centre facilities.

5.2.5 **Policy CS2** sets criteria for assessing proposals for development on unallocated sites. Criteria (a) relates to delivering the Council's Spatial Strategy (policy CS1) as set out in the previous paragraph. The spatial strategy also sets out the overall housing requirement for the Borough, which the proposal would make some contribution to delivering. The proposal would involve the change of use of an existing building, the land is not of high environmental value, nor is the site on the best or most versatile agricultural land - Criteria (b), (c), and (d), and in terms of criteria (f), the application site is within the town centre.

5.2.6 In the context of the above it is considered that in principle residential development is acceptable. Further consideration of

design specific policies, highways and technical constraints are dealt with in the relevant sections of the report below.

Community Infrastructure Levy

- 5.2.7 The proposal involves the creation of new dwellings and is therefore CIL-liable. However, on the basis of the information provided, the proposed development involves only change of use of a building which has been in lawful use for at least six months in the 3 years prior to the development being permitted and does not create any new build floorspace.

5.3 Design & Appearance (inc. Neighbouring Impact / Amenity)

- 5.3.1 The application submission proposes only the change of use of the premises, with no external alterations detailed. On this basis there will be no alterations to the appearance of the building which would raise any concerns having regard to the character and appearance of the streetscene.

- 5.3.2 The proposed floor plans submitted indicate that the conversion will utilise all existing window and doorway openings, which already have an established relationship with the adjoining and adjacent neighbouring properties. Notwithstanding this during an internal inspection of the building the case officer noted that a number of windows positioned in the side elevation of the property which face the adjacent Doctors Surgery were partially obscure glazed (lower level panes) but were clear glazed in upper level panes which allowed a skyward outlook from each room (see photographs below). It is presumed that the windows (which are modern uPVC style) were amended in this way to afford privacy to staff / patients given the properties previous use, but it was noted that a number of the glazed panes to the lower level proportions of the windows include opening mechanisms.

- 5.3.3 Furthermore it was observed that one of the first floor rooms includes a doorway which currently opens outwards onto the flat roof of the rear single storey extension.

(see photographs below)



- 5.3.4 Having regard to the proposed change of use of the premises into 5 no. flats / apartments it is not considered that the use would be inappropriate; however it is necessary to ensure that both amenity and privacy is afforded for both existing neighbours and future occupants of the development.
- 5.3.5 In respect of the 4 no. windows positioned at first floor level in the side elevation of the property facing the doctors surgery it is noted that these serve the communal stairway to flats 3 and 4; and the bedroom, bathroom and kitchen / living room (secondary) to flat 4. These windows primarily look out over the car park of the adjacent Doctors Surgery.
- 5.3.6 Having regard to the fact the windows are already existing and are currently not controlled it is not considered necessary to impose any degree of control on the occupation of these rooms or restrict / obscure the windows. The relationship between them and the adjacent Doctors Practice is established and views already ascertained between both properties are existing.

5.3.7 In respect of the existing first floor door which opens out onto the flat roof of the single storey rear extension, it is unlikely the terrace was used by the commercial operation in the premises previously (other than perhaps to clean windows etc) as there is no safety feature or wall erected around the terrace to meet building regulations. It is noted from the application submission that it is intended the doorway will remain to the bedroom of flat 3; however this is not acceptable as it would facilitate use of the terrace potentially as a garden / amenity space for this unit which is unneighbourly to No 3 Tennyson Avenue whose rear elevation first floor windows would be directly overlooked by someone stood in this area. Whilst it is noted that a suitable screen could be affixed around the terrace to screen these views the visual appearance of any such screen (which would have to be at least 1.8m high to serve to protect privacy) would not be acceptable. Accordingly it is considered necessary to require by condition the detail of a mechanism to securely fix this doorway opening (either by the installation of a Juliette balcony type railing or by a replacement window) prior to the occupation of this unit.

5.3.8 The Council's **Conservation Officer** has reviewed the application submission in light of the fact the application site and / or the development proposals could have an impact upon the setting of the adjacent conservation area. The following comments made have been noted:

'1 Tennyson Avenue is not listed nor is it within a conservation area, but it is on the edge of the Chesterfield Town Centre Conservation Area. Any proposals that might impact on the setting and character of conservation areas should be carefully considered. I notice that this is a change of use application and that there are no proposals to change the building's external appearance. On that basis I have no objections. My only comment would be that if in the future exterior changes were being proposed then there would be an opportunity to improve the setting of the adjacent CA by re-introducing traditional design features into the building such as timber sash windows (the current windows are poorly designed UPVC). As well as improving the setting of the adjacent CA, this would also contribute to the character of Tennyson Avenue, a street which includes an impressive mix of detached period properties (ranging from the Victorian period to the 1930s).'

5.4 **Highways Issues**

5.4.1 The application proposals have been reviewed by the **Local Highways Authority** and the following comments were received:

'This is a full application and the application form indicates 'provision for off-street parking for several vehicles'. This is not, however, clearly demonstrated on any plan available to the Highway Authority. In addition, the Highway Authority has not been provided with any information relating to the layout of the proposed units to assess the number of off-street parking spaces

It is assumed that the parking being referred to is to the rear of the building and it is understood that the premises have a right of access along the route that served the former health centre. This should be clarified and a revised plan submitted indicating this in order that suitable conditions may be included in any consent. Whilst there is a vehicular access to the front of the premises it is recommended that this is closed on the basis of the single width route past the side of the premises to the parking at the rear.

Subject to the above matters being satisfied, there are no objections to the proposal and it is recommended that the following conditions are included in any consent.

- 1. Before any other operations are commenced the existing vehicular access to Tennyson Avenue shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.*
- 2. No dwelling shall be occupied until space has been laid out within the site in accordance with a drawing first to be submitted and agreed, in writing, by the Local Planning Authority showing parking spaces of minimum dimensions 2.4m x 5.5m and manoeuvring to allow vehicles to enter and exit the site in a forward gear. The approved scheme, with the spaces marked out on site, shall be maintained thereafter free from any impediment to its designated use.*
- 3. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste*

have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

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

- 5.4.2 Having regard to the comments received from the LHA above it is noted that they recommend closure of the access onto Tennyson Avenue, in favour of all traffic being directed to the rear driveway access leading onto Saltergate. Notwithstanding this the property the subject of the application currently has an extant permission for use as a medical centre with no restrictions over vehicular access. This means that the property could re-open as a doctors surgery or health clinic at any time with no restrictions and therefore this fall-back position has to be taken into account. Furthermore the access to the front is the original access which can be used.
- 5.4.3 Giving consideration to the fall-back position it not considered that the traffic generation from 5 no. flat / apartments would exceed the traffic generation of a medical centre / clinic and therefore it is not considered reasonable to insist that the access onto Tennyson Avenue is closed to vehicular traffic.
- 5.4.4 It is noted that the area of hardstanding to the rear of the site is currently not marked out for parking; furthermore this is likely to be the location for any bin storage facilities associated with the proposed use. Given the overall area it is considered that there is sufficient space on site to provide at least 5 no. off street parking spaces which would provide 1 no. space per unit which is acceptable; however it is necessary to ensure that these spaces are marked out and space is also provided for bin storage (which should ideally be enclosed to improve visual amenity). Appropriate conditions can be imposed on any decision issued to address these requirements and meet the comments of the LHA in this respect. It is noted that the LHA request the provision of secure

cycle parking within the site however it is likely that any occupant of these units would choose to store cycles in their own unit rather than externally.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 13/02/2017; by advertisement placed in the local press on 16/02/2017; and by neighbour notification letters sent on 07/02/2017.

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

8 Tennyson Ave

I have no objection to the conversion of this property into apartments; however I did request more information on vehicular access.

The application form suggests there is parking available for several cars (which clearly refers to the rear car parking area) and currently this can be accessed in two ways (via Saltergate or via Tennyson Ave). The Saltergate route is well lit and is the easiest to use and if it is intended that this will be the sole access for parking I have no concerns.

However if it is intended that access is to remain from Tennyson Avenue as well this route would cause traffic and potential public safety issues because these roads are already very busy and conflict could exist between the site and the entry / exit of Avenue House surgery.

Ideally I would like to see the Tennyson Avenue access made into a pedestrian only access; and vehicles entering and leaving the car park via the rear access point off Saltergate. For what it's worth I think the design would be much more pleasant for the future residents this way.

Avenue House Surgery

We have no specific objections to the plans however we would like consideration to be given regarding the view from the upstairs windows of the property which border our GP Practice.

We suspect that due to the high elevation of these windows it may be possible to look down into the consulting rooms at our Surgery through the glass at the top of the windows which are not currently obscured. We are unclear whether the development proposes

installation of extra windows to that side but there may be a problem for us with patient privacy if it does.

6.3 ***Officer Response: The applicant was asked to confirm their intention with regards to the existing accesses which serve the site, although the LPA were mindful they could not reasonably require either of the 2 no. accesses to be closed off to vehicular traffic given they both benefit from planning permission in their own right. The applicant confirmed that it was their intention to retain both accesses and keep them available for use as such and on this basis it is not considered that there are any reasonable planning grounds to suggest this situation is not acceptable. It is noted that the GP Surgery have raised concerns about overlooking from the windows in the side elevation of the premises however it is not considered that there are reasonable grounds to require the glazing in the upper panes of these windows to be changed. Furthermore it is not considered there are even grounds to insist the existing obscure glazing is retained given that the windows can be opened at present.***

Please also refer to additional comments in sections 5.2, 5.3 and 5.4 above.

7.0 **HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom
- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

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

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

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

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

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

9.0 **RECOMMENDATION**

9.1 **GRANTED subject to the following conditions:**

Conditions

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

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

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

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

03. Prior to commencement of development a plan shall be submitted to the Local Planning Authority for written approval showing the rear hardstanding laid out with a least 5 no. dedicated parking spaces of minimum dimensions 2.4m x 5.5m and manoeuvring to allow vehicles to enter and exit the site in a forward gear. Prior to the occupation of any of the dwellings hereby approved the space shall be laid out in accordance with the approved scheme, with the spaces marked out on site, and thereafter they shall be maintained free from any impediment to their designated use.

Reason – In the interests of highways safety.

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

Reason – In the interests of highways safety and neighbouring amenity.

05. Prior to commencement of development details shall be submitted to the Local Planning Authority for written approval showing how the first floor doorway to Flat 3 shall be secured to prevent access onto the flat roof of the single storey extension for occupants (measures considered to be acceptable include the installation of a Juliette balcony railing, or replacement of the doorway with a window). Only those details agreed in writing shall be implemented prior to the occupation of Flat 3; and any measures thereafter shall be maintained as approved in perpetuity.

Reason – In the interests of neighbouring amenity.

Notes

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

02. 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.

03. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.
Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.