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File No: CHE/17/00059/DEM  
Plot No: 2/1192

### **ITEM 3**

#### **APPLICATION GIVING PRIOR NOTIFICATION OF THE PROPOSED DEMOLITION OF VACANT / FORMER OFFICE ACCOMMODATION AT THE SHRUBBERIES, 46 NEWBOLD ROAD, CHESTERFIELD, DERBYSHIRE, S41 7PL FOR PEPPERMINT GROVE LTD**

Local Plan: Unallocated  
Ward: Brockwell

#### **1.0 CONSULTATIONS**

Environmental Services      Comments received 08/02/2017 –  
see report

Tree Officer      Comments received 15/02/2017 and  
06/03/2017 – see report

Derbyshire Wildlife Trust      Comments received 16/02/2017 –  
see report

Site Notice / Neighbours      18 letters of representation

#### **2.0 THE SITE**

2.1      The application site (known locally as The Shrubberies, 46 Newbold Road) is a 0.4ha previously developed parcel of land located on the north western edge of Chesterfield Town Centre, positioned at the south side of the B6051 Newbold Road. It has previously been utilised as office accommodation for the NHS Primary Care Trust, featuring one building on site, parking and gardens which all remain in situ but are currently vacant. The site is enclosed with boundary walls to all adjoining aspects and features a number of mature trees which are all protected by Tree Preservation Order 4901.133.

2.2      The building more specifically the subject of proposed demolition is No. 46 Newbold Road (aka the Shrubberies) which is a villa style property which appears on historic maps of the 1870s so it is likely

that it was constructed in the early to mid C19. It is Georgian in style with neo-classical features and proportions including timber sash windows, porticos, projecting eaves, bay windows and window cornices (supported by corbels).

### 3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0193/0034 - Permanent change of use from residential to office accommodation. Conditional permission granted 18/03/1993.
- 3.2 CHE/1093/0622 - Outline application for erection of office building. Condition permission granted 10/02/1994.
- 3.3 CHE/0395/0146 - Extension to offices and alteration to car park. Application withdrawn 07/07/1995.
- 3.4 CHE/0597/0222 - Car parking provision for up to 14 vehicles. Conditional permission granted 25/06/1997.
- 3.5 CHE/1197/0584 - Waiver of condition 2 and 7 of CHE/597/222 relating to site entrance site entrance. Conditional permission granted 24/02/1998.
- 3.6 CHE/08/00413/TPO - Work to T4 Hawthorn, T14 Sycamore and T15 Oak and fell T11 & T12. Conditional permission granted 25/07/2008.
- 3.7 CHE/09/00202/TPO - T1-T10 Crown lift + reduce. Conditional permission granted 16/04/2009.
- 3.8 CHE/10/00012/FUL - Replace timber rear gates that face onto Cobden Road. Conditional permission granted 10/03/2010.
- 3.9 CHE/16/00591/FUL - Residential redevelopment of site for 13 units and associated ancillary works. Refused on 11/01/2017 by planning committee for the following reason:
  - 1. In the opinion of the local planning authority the loss of the existing building will result in the erosion of the character of the area to the detriment of the appearance of the local area. Furthermore the loss of protected trees will be detrimental to the character of the area having regard to the ecological and

amenity contribution they provide. The local planning authority consider therefore that the development does not respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context and will therefore be at odds with policies CS9 and CS18 of the Core Strategy 2011-2031.

#### 4.0 **THE PROPOSAL**

4.1 The application submitted gives prior notification of the proposed demolition of No 46 Newbold Road, which is accompanied by the relevant application form, site location plan, topographical survey and demolition method statement.

4.2 The application submission was supplemented with further information, as requested by the Local Planning Authority, comprising of a revised Demolition Arboricultural Method Statement, Demolition Method Statement, A Tree Protection Plan, Tree Survey, Tree Constraints Plan and Covering Letter and which were received for consideration on 03/03/2017.

#### 5.0 **CONSIDERATIONS**

##### 5.1 **Procedure of Prior Notification / Approval**

5.1.1 In accordance with Schedule 2, Part 11, Class B of the General Permitted Development Order 2015 the applicant submitted a prior notification of proposed demolition of the building on site on 31 January 2017. Subsequently the relevant application fee was paid on 02 February 2017 and confirmation that the applicant had, in accordance with Condition B2 (b) ii, erected a site notice outside the premises the subject of the notification was received on 06 February 2017 making the application valid.

5.1.2 The Local Planning Authority was thereafter required within 28 days of the date of the application being valid (06 February 2017) to confirm in writing to the applicant that prior approval of the proposed **method of demolition** and **site restoration** is or is not required.

5.1.3 On 15 February 2017 it was confirmed that prior approval was required for the following reason:

*‘the site is in close proximity to other residential properties, is in a relatively prominent location in the streetscene and there being potential for a significant impact on amenity given the information submitted. There are also trees located within the application site protected by preservation order 4901.133 that could be potentially affected by the demolition works.’*

- 5.1.4 Additional information was therefore requested and as a result of the decision confirming that prior approval was required, the Local Planning Authority have until the 03 April 2017 to consider whether, based upon the information submitted, prior approval should be given for the proposed method of demolition and site restoration.
- 5.1.5 It must be noted that in accordance with the above prescribed procedure the only two issues which can be considered as part of this application process is the method of demolition of the building and the way in which the site is left / restored post demolition. The principle of demolition is already granted by the terms of the general permitted development order. Under Condition B2 (b) (i) (aa) of the GPDO 2015 the Council as LPA are exclusively restricted to consideration of the proposed method of demolition and any proposed restoration of the site. In the case of Prior Approval any other ‘typical’ material planning conditions cannot be considered including the value of the building to the streetscene or any character the building may display. The building the subject of this application was the subject of a previous planning application for, ‘demolition of the existing building and residential redevelopment of 13 units and associated ancillary works’. This application was submitted under application ref. no CHE/16/00591/FUL and was refused on 11<sup>th</sup> January 2017. Notwithstanding this, including the reasons for the decision taken on that particular planning application, the determination of the application for prior notification / approval cannot be influenced by the previous decision and must be assessed on its own merits in accordance with the GPDO and within the limitations set out in the regulations. To do otherwise may well be construed as *ultra vires*.

## 5.2 **Method of Demolition**

- 5.2.1 In accordance with the revised Demolition Method Statement the application details an appropriate demolition methodology for the building as follows:

### **Method: Demolition of Existing Building**

- Demolition asbestos survey undertaken prior to commencement. Where any identified, removal to be undertaken by licensed contractors or following guidance where applicable.
- Contractor to supply all plant machinery, labour, safe access and equipment
- Soft-stripping of all buildings being demolished
- Soft-strip of buildings / back to landlord's shell including;
- Removal of redundant plant items/loose furnishings
- Demolition of structures in line with BS6187:2011
- Demolition of sensitive areas by hand working methods
- Demolition adjacent tree structures to be undertaken inwards (top down, pull back)
- Reducing boundary wall down by hand to specified height if required
- Once hand reduction is complete/All buildings will be demolished by mechanical methods
- Breaking up and removal of all concrete floor slabs up to 300mm thick
- Breaking up and removal of all existing footings to building being demolished to a depth of 1.5m
- Breaking up and removal of hard standings up to 300mm thick
- Removal of materials from site (not crushed on site)
- Removal of overgrowth and bushes (where applicable)
- Clear site of all brick, concrete rubble & waste, leaving a level & tidy site

### **Site Management**

- Dust suppression methods by spray water, or by other suitable method to suit weather conditions.
- Vehicle wheel cleaning to be undertaken if required to prevent movement of dirt onto the adopted highway.
- Trees within context of demolition protected to BS 5837:2012 and tree protection plan, to be implemented and inspected by an officer of the council prior to commencement of demolition.
- Any tree-pruning to be made via the means of a formal application to the LPA prior to being undertaken.
- Hours of Operation (In line with the Council's **Environmental Health Officer** as advised): 8am and 6:00pm Monday to Friday, 9:30am to 4:30pm Saturday, and no demolition shall take place on a Sunday or Public Holiday.
- H&S Plan to be provided by demolition contractor

### 5.2.2

Having regard to the details contained in the methodology above it is noted that demolition is now set out in line with comments of the Council's **Environmental Health Officer (EHO)** having regard to hours of operation, asbestos checks, dust suppression which is all considered to be acceptable. Furthermore the applicant appointed Weddle Landscape Design to prepare an accompanying Demolition Arboricultural Method Statement and Plans to demonstrate how the site would be demolished without adversely affecting the protected trees and this contains measures of how the trees will be protected during the demolition stages. This documentation was prepared following initial advice from the Council's **Tree Officer** made on 15/02/2017. He has subsequently inspected the latest details (received on 03/03/2017) and commented as follows:

*'Further my comments of the 15th February 2017 regarding application CHE/17/00059/DEM. The applicant has now submitted a Tree Survey, Tree Protection Plan and Arboricultural Method statement dated March 2017 by Weddle Landscape Design. The details in the Arboricultural Method Statement are acceptable and conform to BS5837 'Trees in Relation to Design, demolition and construction - Recommendations' 2012.*

*Details of the location of the protective fencing, type of fencing and site storage area are shown on drawing 635-TSC 05 titled 'Demolition Tree Protection Plan' and are acceptable.*

*I therefore have no objection to the demolition of the building as long as the information supplied by Weddle Landscape Design which fully covers the tree protection measures are carried out for the protection of the trees on the site.*

*Please note there is no objection to the proposed facilitating pruning which includes the crown lifting of two protected trees by 5.2 metres reference T5 & T6 Copper Beech of TPO 133 which are located at the driveway entrance off Newbold Road. The pruning of the trees will remove the risk of any accidental damage to the lower branches of the trees by demolition traffic, however a formal tree pruning application is still required for consideration before any tree works can commence.'*

### 5.2.3

**Derbyshire Wildlife Trust (DWT)** had initially contacted the LPA upon learning about the application from local residents (the LPA would not have consulted with DWT direct given the nature of the application – prior approval) and they subsequently made the following comments:

*‘Although the application is for demolition of the building outside of the previous outline/full planning application, the legal protections for wildlife still apply. If any work undertaken that will affect a protected species such as bats are injured or killed or their resting places disturbed/damaged, the applicant could be liable for prosecution and is an offence to carry out works which disturb or would result in harm to a protected species or its habitat.*

*If demolition consent is granted, it is recommended:*

- *The trees present on site should be protected throughout the works and follow guidance BS 5837:2012*
- *Natural England generally request that works are carried out during the periods March to April or September to October of any given year to avoid the maternity and hibernation seasons, which are the most sensitive periods in the life cycle of bats*
- *A “soft strip” approach should be adopted to reduce the likelihood of causing harm to any bats that may be present. Roof tiles and other features should be carefully removed by hand (for at least 1m up from the eaves, down from the ridge, the ridge tiles and any hip tiles, flashing, fascia boards and window frames) and checked on both sides preferably by a licensed bat ecologist*
- *Remove existing slates and other roof materials by hand taking care not to twist or bang. Check the underside of ridge tiles. Keep a careful watch for bats during this operation*
- *If bats are found during the soft strip works should cease immediately.*

*All species of British bats are fully protected under European and UK legislation, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended) respectively. Combined, these acts prohibit:*

- *The deliberate killing, injuring or taking of a wild bat;*
- *The deliberate disturbance of a bat in such a way as to be likely significantly to affect:*
- *Damage or destruction of a breeding site or resting place (roost);*

- *Obstruction of access to a roost;*
- *The sale, barter or exchange of bats or any other part thereof;*  
*and*
- *The possession or transport of bats or any other part thereof.*

*Offences can be intentional or reckless and penalties include **fin**  
**es**  
**of up to £5000 and/or up to 6 months imprisonment per**  
**offence**, which is considered to be per animal affected.'*

5.2.4 The comments made by DWT were forwarded to the applicant for consideration and the recommendations with regard to a 'soft strip' approach of the buildings have been incorporated into the revised demolition methodology to protect any ecological interest within the building. Having discussed the nature of the application with the LPA, DWT fully appreciate that the type of application being considered means that conditions cannot be imposed on any decision the LPA make. DWT are aware of this and as is highlighted in their comments above any grant of prior approval for demolition does not override / overrule the statutory protection offered to bats in this instance. Furthermore however, neither is the potential presence of bats a reason to withhold prior approval of demolition either – particularly if the applicant has demonstrated a mechanism for demolition which is acceptable to DWT.

5.2.5 Having regard to the issues set out above it is considered that the method of demolition is acceptable having regard to the measures being proposed to protect trees on site; any impact on ecological interest is to be mitigated by an appropriate methodology and by statutory protection offered under separate legislation and the methodology set out is acceptable having regard to hours of work, dust suppression, noise and the potential impact of these works on adjoining / adjacent neighbours.

### 5.3 **Site Restoration / Remediation Post Demolition**

5.3.1 Demolition of the buildings will result in a cleared site, which is intended for future development. This is acceptable and often sites are cleared by demolition contractors without an approved development scheme being agreed (another local example of this the former Queens Park Sports Centre, Boythorpe Road).

5.3.2 The proposed demolition methodology indicates that following completion of demolition the site will be clear of all brick, concrete



rubble and waste leaving a level and tidy site. The site will remain secured by the existing boundary walls and gates to Newbold Road.

- 5.3.3 Having regard to the demolition methodology and proposed intensification of site remediation, the measures being proposed are considered to be acceptable.

## 6.0 **REPRESENTATIONS**

- 6.1 In accordance with Schedule 2, Part 11, Class B of the General Permitted Development Order 2015 Condition B2 (b) ii the application has been publicised by site notice posted by the applicant on 03 February 2017.

- 6.2 As a result of the applications publicity 18 letters of representation have been received as follows:

### **39 Cobden Road**

The original application seeking approval for the demolition of the building was refused on the 11<sup>th</sup> January 2017. Neither the site nor the application since this decision has changed; therefore it is my opinion and the opinion of other local residents on Cobden Road that the refusal should stand.

None of the issues highlighted in the original planning application have been addressed, such as the comments from Derbyshire Wildlife Trust concerning bats and the loss of trees, and given the proposed demolition date of the 15<sup>th</sup> March it is unlikely the further survey work DWT requested will be completed. The site has ecological importance, so care and attention along with strict mitigation needs to be enforced. The surrounding trees are still protected by TPO and will most likely be damaged during demolition.

During demolition heavy plant and vehicles will require access and agree from the main available site access point, and due to the precarious position of the gates and walls there is an apparent danger that heavy vehicle movements will increase potential for accidents on Newbold Road. It is also likely that movement of heavy plant on site will cause damage to adjoining properties given their proximity and current fragile state.

I would like to complain that the site notice was placed away from the original location of all preceding planning notices and due to it being un-laminated the rain will render it unreadable to the public.

No other correspondence has been issued to the local neighbourhood or any notices put up on Cobden Road as was done on previous occasions. The local community has not been given a fair opportunity to object to this proposal.

### **Chesterfield and District Civic Society**

Following discussion at the Civic Society committee meeting I have been asked to write on its behalf urging that permission be not granted to demolish No 46 Newbold Road.

We are aware of the planning committees recent decision to reject an application from the prospective developers of the site to demolish the building and build 13 new properties, but I have spoken to Cllr Bingham who has told me that the existing owner, the Health Authority, wishes to clear the site irrespective of the lack of planning permission to redevelop.

The Civic Society feel efforts should be made to retain the original house on the site, while allowing the extension grounds to be partly used for new buildings for the following reasons:

1. Demolition would detract from the appearance of this part of Lower Newbold as a pleasant mid-nineteenth century middle class residential area; which may in the future be a candidate for a conservation area status. We accept that The Shrubberies itself does not merit statutory protection.
2. Because it has such a large garden extending over what was originally intended to be another building plot to the east there is ample space to build on part of the site whilst retaining the original house and a reasonable amount of garden. This would increase the amount of smaller modern house near the town centre without the loss of a much bigger house.
3. Demolition would diminish further the stock of Victorian houses within walking distance of the town centre, of a size no developer is going to build today. There is obviously a limited demand for such houses, but there is a demand (for example from three generation middle class families or professional people who wish to work from home and only a limited stock in Chesterfield from which it can be met.
4. The Health Authority should at least be asked to test the market for The Shrubberies as a private house by offering it for sale on that basis, before being allowed to demolish it.

### **43 Cobden Road**

I am deeply disturbed to see that the developers have put up a notice of their intention to demolish The Shrubberies on the 15<sup>th</sup> March 2017.

On the 9<sup>th</sup> January 2017 the planning committee turned down a planning application on the grounds that the loss of the existing Victorian building would result in 'erosion of the character of the area to the detriment of the appearance of the local area' as well as that 'the loss of protected trees will be detrimental to the ecological and amenity contribution they provide'.

In his advice to the planning committee the Conservation Officer stated that "the property has historic and architectural value, they are increasingly uncommon in chesterfield and emphasis was that they should be retained". He went on to say: "These streets are important to the town's development and character and cumulatively represent a consistent identity and group value which justifies putting the area forward as a potential Conversation Area". He goes on to say that "whilst the building is not statutorily listed, it is included on the Council's draft Local List of Heritage Assets (approved by the Deputy Leader and Executive Member for Planning on 27<sup>th</sup> July 2016), hence some weight can be given to protecting the house in planning terms (NPPF paras 126-136)". Apparently local residents only have until **24 February** to respond.

I am alarmed therefore to see that in response to the letter from Matt Barnett on behalf of local residents on 7th February, the Council's Chief Planning Officer has sent a briefing note to Members of the Committee which states: "A decision has to be made within the prescribed periods because failure to do so gives deemed permission. The decision as to whether prior approval is required cannot therefore be determined by planning committee and will be determined by officers in line with the agreed delegation scheme".

It is surely a denial of democratic accountability if our elected Councillors are excluded from this process. This is especially the case as the Council's Conservation Officer has pointed out that "The house is located on the Western boundary of the site... hence it is feasible for the house to be retained without sterilising the proposed housing layout to the south or main access point." Such a scheme would be supported by local residents providing it still afforded protection to the trees subject to TPOs.

I cannot help feeling it will be an abrogation of responsibility if our elected Councillors do not intervene at this point to ensure their

express views cannot be flouted by private developers. At the very least there is a duty to ensure that any work on the site does not disrupt traffic and pedestrians on Newbold Road or affect the neighbouring residents in Cobden Road.

I trust that you will make every effort to protect Chesterfield from this blatant disregard of the spirit of planning regulations in the Borough.

### **A Local Resident**

I would like to register an objection to the demolition of the shrubberies. It should not have even been considered.

### **33 Cobden Road**

After the Council meeting dealing with the planning application CHE/16/00591/FUL I thought about 10 out of 12 councillors expressed concerns over the demolition of this substantial building. They were against it and the Heritage Councillor spoke at some length about preserving such buildings to enhance the landscape and give it historic perspective.

I understand the developers are eager to proceed with their development and I am not against development of this site in principle, but felt the Councillors were concerned about the developers complete disregard of the surroundings of the development.

It seems they are being ignored and the developers are proceeding in a cavalier fashion still disregarding the Council votes and local residents. If this is so, what is the point of the process? Chesterfield does need new homes but not at any price. We need to be proud of development that is left for future generations, not any old things done to maximise developer profit.

I was hoping for a new plan with the concerns addressed and a more sympathetic design.

### **3 Winnats Close**

I have recently learned of this application and feel very strongly that I must register my deep dismay.

You are already familiar with the many valid reasons for preserving this increasingly rare building so I will not repeat them.

I want to know how it is that planning committees refusal to grant permission for development of the site is being ignored by the health authority owners in such a cavalier fashion. Surely at this eleventh hour Chesterfield Borough Council can halt this proposed desecration?

### **48 Cobden Road**

The previous application for the sites redevelopment was rejected by 10 councillors out of 12 on a number of grounds including the fact demolition of the house would be detrimental to the character and appearance of the local area. Surely the developer cannot be allowed to ignore the decision of the planning committee and proceed with demolition?

Chesterfield has very few properties of that style and quality still in existence and they should be preserved, not demolished.

Whilst I am not against the redevelopment of the site I think it should be done more sympathetically and should preserve as much as possible of the heritage and environmental aspects of the site. The development should also be more considerate of the impacts upon the immediate neighbours.

I would also raise a question over the covenant on the property and land; which I believe was gifted for the benefit of the local population. The planning report said the covenant was not a material consideration; but I would like to know why this is the case? The Council have a responsibility to act on behalf of the local population and should be ensuring the benefit accrues the local population as directed.

### **76 Dukes Drive**

Objects to the application as the removal of this quality building is unnecessary and there remains a threat to the trees on the site.

### **A Local Resident**

I agree with the Chesterfield Civic Society objection comment. The previous application to demolish this building and redevelop the site was quite rightly refused.

### **35 Cobden Road**

I am very concerned that the developers are acting against the wishes of the planning committee; who at a recent meeting did not approve a proposed development at this site as it involved the demolition of this historic building of character which contributes to the amenity of the area and town.

The building has stuck the test of time and was more recently occupied as offices. I am not against developing the site for much needed housing but the developers should be able to compromise their desire to maximise profit from the development to enable the

building to remain. I would be happy to meet the planners and developers to discuss further.

### **235 Newbold Road**

We wish to object to the demolition as this property is an important part of the streetscene which I believe is in a conservation area. To demolish the property would damage the character of this historic part of Newbold Road.

It would be suitable for conversion to apartments with retention of the mature trees in the grounds.

### **41 Cobden Road**

I object to the proposed demolition of 46 Newbold Road; an historic 19<sup>th</sup> Century building which I believe is subject to a restrictive covenant and a recently as Nov 2015 was suitable for conversion having previously been used as offices.

Last month planning permission was refused for the demolition of the building as its loss would result in the erosion of the character of the area to the detriment of the appearance of the local area. Earlier this month the security lighting was switched off as well as presumably the alarm for the building so it has been effectively abandoned.

Surely a repeated application should result in a repeated refusal for similar reasons.

### **37 Cobden Road**

I understand from my neighbours and the DT that the developers still intend to go ahead with the demolition of the building regardless of the outcome of the planning committee meeting held in January 2017.

Can you explain why this is the case? Surely when a decision is made to keep a building the developers cannot ignore it.

Neither myself nor the local residents have changed our minds and we feel the loss of such a historic building would have a detrimental effect on the local area.

What is the appeal procedure if the demolition is allowed to go ahead?

### **Victorian Society**

Having been made aware of this application I now write to register the Victorian Society's objection to the demolition of the Shrubberies, which would deprive the area of a building of high

local importance and harm the character and appearance of the local area.

In responding to the recently refused planning application for the demolition of the Shrubberies and the redevelopment of its site, the Council's Conservation Officer described the building as "an earlier and grander version of the villa style properties" that characterise the area. It is a pleasingly proportioned, attractively detailed building in a dignified early Victorian manner. It is also included on the Council's draft local list, indicative of its intrinsic interest and high local significance. In issuing its recent decision the Council asserted that the loss of the building would "result in the erosion of the character of the area to the detriment of the appearance of the local area". We fully support this view.

It is a core planning principle that heritage assets are conserved "in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations". Paragraph 131 of the NPPF states that local planning authorities should take account of the "desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation". It highlights also the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality. Paragraph 132 stresses that "great weight" should be given to the preservation of heritage assets. Paragraph 58 compels the Council to ensure that developments "respond to local character and history, and reflect the identity of local surroundings and materials". In addition, paragraph 135 of the NPPF states that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application". The demolition of the Shrubberies is therefore a material consideration in determining this application, one that the Council is obliged to take into account.

National policy presumes in favour of sustainable development, which requires equal regard be paid to economic, social and environmental issues. The protection and sensitive management of the historic environment is a key part of the environmental aspect and, by proposing the loss of this locally significant building; it is one this scheme neglects. This application does not, therefore, constitute sustainable development.

Implementation of this scheme would result in the total and unjustified loss of a distinguished building of high local importance that could quite simply be brought back into use as part of a more sympathetic redevelopment of the site. The substantial weight of

national and local planning policy renders such a proposal entirely insupportable. We endorse the advice of the Council's Conservation Officer and recommend that the application is refused consent. In addition, we encourage the Council to consider the designation of a Conservation Area so that important buildings such as the Shrubberies, and the area it assists in defining, gets both the recognition and statutory protection that it clearly merits.

### **30 Tennyson Avenue**

I have just learned of the proposed demolition of The Shrubberies and wish to register my objection to the proposal. I am also concerned about the lack of consultation given the potential loss of a very significant local building and the likely destruction of yet more trees. I understand housing is needed but this should not be at the cost of our local environment.

### **12 Cobden Road (x2)**

We wish to object to the proposed demolition of the Shrubberies and agree with the original planning objection by Planning Committee.

### **1 Dowdswell Street**

I have found out today that the developers have put in another application to demolish the building. After the planning committee turned down the previous application in January 2017 how can this be happening?

I would again like to emphasise how beautiful the building is and how much it is loved in the local area. Surely the developers cannot demolish such an integral part of the local environment when no plans are in place for what will replace it? Or is this a way of getting their original plans approved, dealing with the finer details later?

Myself and other local residents have not altered our views and wonder why the original meeting outcome cannot be adhered to? If such a travesty was given the go ahead please can you advise me of the appeals process?

6.3

### ***Officer Response:-***

***The fact that Planning Committee previously refused a planning application for the demolition and redevelopment of the site is not a reason to refuse any further applications /***



***notifications made to the Local Planning Authority. Each application must be assessed on its own individual merits.***

***A covenant of land is not a material planning consideration. It is a civil matter which can only be pursued by the imposer of the covenant against any future owner who is found not to be compliant with any such covenanting requirement. It is not a matter which involves the Local Planning Authority or is enacted through Planning Legislation.***

***There is no third party right of appeal.***

***The building is not a listed building and the site is not within a conservation area. It is not a designated heritage asset.***

***The response of the Victorian Society suggests that the application being considered is one of development; which it is not. The application is one following the process of prior notification / approval under the General Permitted Development Order (GPDO) 2015.***

***In administering the prior notification / approval process prescribed by the GPDO the Local Planning Authority are not considering the sites suitability for development or indeed the merits of a development proposal for the site. The demolition of buildings which are not listed or in a conservation area is already permitted in principle by the parameters of the GPDO and the Local planning Authority are simply tasked with assessing whether the proposed method of demolition and the sites restoration / remediation are appropriate.***

***There is no mechanism under planning legislation or national / local planning policy to prevent the loss of the building as is being suggested by the Victorian Society. It is not a listed building, it is not located in a conservation area and therefore it is not a heritage asset named upon any national statutory register which offers it any degree of protection.***

***It is noted that the response of the Victorian Society suggests that the building and the local area be protected by conservation area status; however there is a statutory process in its own right which has to be followed in order to proceed with any such designation and which would take an***

***estimated 6-18 months to complete. Instigation of any such process is also not a defensible reason to hold up the processing and consideration of this current application.***

## 7.0 **HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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 Whilst, in the opinion of the objectors, the loss of the building results in the dilution of the character of the area, this is not a material or relevant consideration on such a submission such that any additional control to satisfy resident 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 The details submitted are considered to be sufficient to determine that a significant adverse effect on local amenity is unlikely with regard to demolition and method of restoration.

9.2 Having regard to the details and conclusions set out above it is considered that prior approval should be granted.