

Case Officer: Sarah Kay
Tel. No: (01246) 345786
Ctte Date: 8th January 2018

File No: CHE/16/00083/OUT
Plot No: 2/946

ITEM 2

OUTLINE APPLICATION FOR DEVELOPMENT ON LAND TO CONSTRUCT RESIDENTIAL PROPERTIES AND ACCESS DRIVE OFF SHERBOURNE AVENUE (COAL MINING RISK ASSESSMENT REC'D 09/03/2016, ECOLOGICAL ASSESSMENT REC'D 15/11/2016 AND REPTILE SURVEY REC'D 14/11/2017) AT LAND TO THE REAR OF 18 LANCASTER ROAD, NEWBOLD, DERBYSHIRE FOR MRS ASHTON

Local Plan: Unallocated
Ward: Dunston

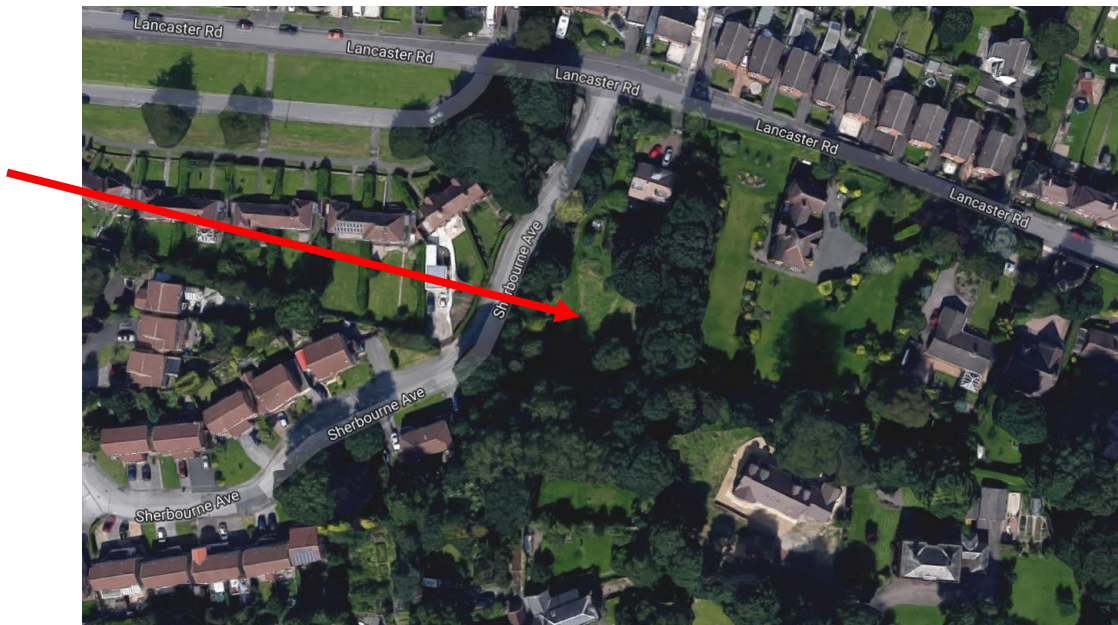
1.0 CONSULTATIONS

DCC Highways	Comments received 16/03/2016 – see report
Forward Planning	Comments received 23/02/2016 – see report
Yorkshire Water Services	Comments received 15/03/2016 – see report
Design Services	Comments received 14/03/2016 – see report
Environment Agency	Comments received 23/02/2016 – no objections
Environmental Health Officer	Comments received 24/02/2016 – see report
Urban Design Officer	Comments received 18/04/2016 – see report
Derbyshire Wildlife Trust	Comments received 15/03/2016, 06/12/2016 and 20/11/2017 – see report
Derbyshire Constabulary	Comments received 17/03/2016 – no objections
Coal Authority	Comments received 07/03/2016 and 24/03/2016 – see report
Tree Officer	Comments received 01/04/2016 – see report
Ward Members	No comments received

Site Notice / Neighbours	Three letters of representation received
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2.0 **THE SITE**

- 2.1 The application site, which measures approximately 0.2ha in area, comprises of the southern portion of the garden curtilage of Landsdowne, 18 Lancaster Road. Landsdowne itself is a detached dormer bungalow which sits in its generous garden curtilage which is a corner plot which fronts onto Lancaster Road to the north and adjoins Sherbourne Avenue to the west. A common boundary to the site is shared to the west with No's 2 and 4 Sherbourne Avenue. The sites eastern boundary is shared with Apple Trees and its southern boundary with Grove Hill and The Barn which are three surrounding similarly large neighbouring residential plots.



3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/16/00053/FUL - Residential development of 6 dwellings and a modified access from Lancaster Road at Apple Trees, Lancaster Road.
Conditional permission 26/04/2016 (not implemented – expires 25/04/2019).
- 3.2 CHE/15/00723/TPO - Removal of 4 lower branches and crown thin by 25% of T56, removal of one branch and crown thin of G13

(ash), removal of 2 limbs to the north and re-balancing of crown by crown lifting of T55 and fell T51.
Conditional permission 18/11/2015.

- 3.3 CHE/14/00534/TPO - Ash - Branches breaking out. Repollard. Sycamore - crown thin. Branches growing towards garage. Growing over garage.
Conditional permission 05/08/2014.
- 3.4 CHE/13/00521/TPO - Crown thin by 25%, crown lift by 5 metres, reduction of branch(es) overhanging garden x 2 Ash - 2 metres, reduction or remove x 6 extended branches over garden.
Conditional permission 26/09/2013.
- 3.5 CHE/12/00782/TPO - Remove small limb of T50 (ash) remove 2 limbs of T55 (sycamore + crown thin by 25%), remove 2 limbs of T57 (silver birch), crown lift group of trees G13, Group of trees crown lift to 4m. G14 fell dead silver birch and poplar, remove dead wood of mountain ash and pollard 6 remaining poplars down to 10ft.
Conditional permission 31/01/2013

4.0 **THE PROPOSAL**

- 4.1 The application submitted seeks outline planning permission with all matters reserved for the proposed development of land to the rear of Landsdowne, 18 Lancaster Road for residential purposes. Access to the development is indicated as being proposed from Sherbourne Avenue which adjoins the site on its western boundary.
- 4.2 The application submission is accompanied by the following plans / documentation / reports:
DSC.623.01 - Site Location Plan and Suggested Site Development Layout
Coal Mining Risk Assessment (by Design Services dated March 2016)
Ecological Assessment (by Arbtech dated 03 November 2016);
and
Reptile Survey (by Peak Ecology dated 24 October 2017)

5.0 **CONSIDERATIONS**

5.1 **Planning Policy**

5.1.1 The site is situated within the built settlement of Dunston ward in an area predominantly residential in nature.

5.1.2 Having regard to the nature of the application proposals policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing) and CS18 (Design) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development**

5.2.1 The site the subject of the application is unallocated and lies within the built settlement of Dunston ward surrounded by residential properties.

5.2.2 Policies CS1 and CS2 of the Core Strategy set the Councils overall spatial strategy and the principles for the location of new development stating that all new development and growth should be located in areas which are within walking and cycling distances of centres. In regard to the sites spatial setting, the sites are within walking / cycling distance of the Littlemoor and Whittington Moor District Centres (Policy CS1) and are therefore despite its greenfield status (policy CS10) the site is considered in principle to be an appropriate infill development site for new development.

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

5.3.1 The site forms part of a large existing garden to No. 18 Lancaster Avenue. The topography is generally level. It is bounded by Sherbourne Avenue to the west and a neighbouring garden to the east. The land to the south comprises a small rectangular green space, although it is unclear whether this forms part of the

domestic curtilage of the dwellings to the south (The Barn and Grovehill).

- 5.3.2 Adjacent to the south west corner are two flats separated by an existing driveway. These are the first of a series of modern (20 century) dwellings on Sherbourne Avenue.
- 5.3.3 The eastern boundary alongside Sherbourne Avenue comprises a low (1.2m approx.) sectional concrete panel fence with trees and shrubs behind. The site incorporates a number of protected trees and tree groups, as well as mature vegetation along the eastern and southern boundaries, some of which falls within neighbouring gardens.
- 5.3.4 The site is within an established residential area within the built up part of Chesterfield. As such, there is no design objection to the principle of this type of development.
- 5.3.5 The application is in outline, although the scheme is accompanied by a detailed site layout (although not for approval as part of this submission), showing an arrangement of four units. Based upon this indicative layout, the arrangement appears cramped with plots in close proximity to the neighbouring boundaries, within 10.5m of the garden to the west. Units 1 and 4 in particular, are positioned close to the neighbouring boundaries, resulting in shallow awkward shaped gardens. In addition, as shown the layout makes little contribution to the appearance of the streetscene.
- 5.3.6 In the event that planning permission is granted, this layout would be unlikely to be acceptable. However, a less dense proposal (for example comprising three dwellings) could be brought forward towards Sherbourne Avenue, potentially with direct access from this road and be more likely to be satisfactorily accommodated on the site.
- 5.3.7 The narrative above incorporates the comments of the Council's **Urban Design Officer** who advises that he has no objection to the principle of residential development however in the event that outline planning permission is approved a less dense scheme is more likely to be appropriate. It is considered that the proposed development can be appropriately designed to reflect the character and appearance of the streetscene and to preserve appropriate levels of amenity and privacy to adjoining and adjacent

neighbouring properties in the context of policies CS2 and CS18 of the Core Strategy. As further designs are developed they will need to take account on the observations made by the UDO above and also the advice which is contained in the Council's adopted Supplementary Planning Document for Housing Layout and Design.

5.4 **Highways Issues**

5.4.1 Comments have been received from the **Local Highways Authority** as follows:

'This is an outline application with all matters reserved and there are no objections to the proposal subject to the following conditions being included in any consent:

1. *Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Sherbourne Avenue in accordance with details to be submitted and agreed at reserved matters / full planning application stage with such access being provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access to the extremities of the site frontage abutting the highway in both directions. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.*
2. *The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parkin and manoeuvring of vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.*
3. *The proposed access and any individual driveways to Sherbourne Avenue shall be no steeper than 1 in 14 over their entire lengths.'*

5.4.2 Overall it is considered that the development proposals can be appropriately serviced by a dedicated access junction with space to provide the necessary highway visibility splays such that the development does not give rise to any adverse highway safety concerns. An appropriate driveway width and length can be accommodated, alongside appropriate visibility splays and parking provision to meet the requirements of the LHA and the provisions of policies CS2, CS18 and CS20 of the Core Strategy.

5.5 Land Condition / Contamination

5.5.1 In respect of land condition the application site lies in the Coal Authority's standard development referral area and therefore the Coal Authority's initial consultation response issued a holding objection, pending the submission of a Coal Mining Risk Assessment (CMRA).

5.5.2 On 09 March 2016 a CMRA was submitted which was referred to the **Coal Authority** (CA) for consideration. The following comments were received:

'Whilst The Coal Authority has concerns that the Mining Report and Assessment has not been prepared by a "competent body", we do concur with the recommendations of the Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

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

In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these should also be conditioned to be undertaken prior to commencement of the development.

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

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

*The Coal Authority considers that the conclusions of the Mining Report and Assessment are broadly sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore **withdraws its objection** to the proposed development **subject to the imposition of a condition to secure the above.***

Further more detailed consideration of ground conditions and/or foundation design, and the need for gas protection measures within the proposed dwelling, are also likely to be required as part of any subsequent building regulations application.'

- 5.5.3 Having regard to the comments detailed above from the CA appropriate conditions can be imposed to this effect, if permission is granted, to ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of land condition.
- 5.5.4 In addition to the comments of the CA, the Council's **Environmental Health Officer** (EHO) also provided the following response having regard to potential noise impacts and land condition:
'With regards to this application, should planning consent be granted, I recommend:
- 1. Add usual condition regarding house of construction (to minimise noise impact on existing residents).*
 - 2. Carry out a desk study and if necessary, a site investigation. Reports should be submitted and approved in writing prior to commencement of development.'*
- 5.5.5 Having regard to the comments of the EHO above and the provisions of policies CS2 and CS8 of the Core Strategy / NPPF it is considered appropriate that the matters raised in respect of potential land contamination and noise can be addressed through

the imposition of planning conditions which will require appropriate studies to be undertaken.

5.6 **Flood Risk / Drainage**

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

5.6.2 The DS team commented, *'The site is not shown to be at risk of flooding, according to Environment Agency Flood Maps. We would like to see drainage proposals for this site prior to approval. These must conform with CBC Minimum Development Control Standards. If any connections are made to the public sewer, approval will be required from Yorkshire Water. Any connections to the existing drainage system may require Building Control approval.'*

5.6.3 YWS commented, *'SURFACE WATER - Requirement H3 of the Building Regulations 2000 establishes a preferred hierarchy for surface water disposal. Consideration should firstly be given to discharge to soakaway, infiltration system and watercourse, then to public sewer, in this priority order. Alternatively, subject to above testing for soakaways. Surface water discharge to the public surface water sewer network should be restricted to the level of run-off. On-site storage/balancing - or some other means of attenuation of the surface water may be required. The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.'*

5.6.4 It is considered that appropriate planning conditions can be imposed which requires the submission of further detailed drainage designs to satisfy the queries outstanding in accordance with policy CS7 of the Core Strategy.

5.7 **Trees & Ecology**

5.7.1 It is noted that there are a number of mature trees located within and adjoin the application site some of which are protected by tree preservation order 4901.34. Having regard to this the Council's

Tree Officer has been consulted on the application proposals and the following comments were provided:

'There are numerous trees on the site which are covered by the above mentioned tree preservation order and other planted and self-set trees on the site.

The Order which was made in 1984 originally consisted of 4 individual trees reference T50 Ash, T51 Poplar, T55 Sycamore and T56 Ash and two groups of trees reference G13 consisting of 8 trees mainly Ash and Maple and G14 consisting of 12 trees comprising Poplar, Birch and Mountain Ash.

Over the years since the Order was made the two groups of tree especially G14 has seen the condition of the trees deteriorate and now all that is left of the group are 1 Mountain Ash and 5 Poplar trees which are dead or nearly dead. There are still 5 outstanding replacement trees to be planted in this area for trees which have died and have been felled but I can see no reason why these cannot be planted at a later stage if consent is granted for the application.

Group 13 is also in poor condition which still consists of 4 Maples and 4 Ash however these are also in poor condition with poor unions at the base, leaning towards the light leaving one sided trees and affecting the stone boundary wall. The trees have been topped in the past and although reasonably visible from Sherbourne Avenue as a group I feel new planting within any development would be a better option than trying to retain trees that have limited life expectancy. There is also the strong possibility that some of these trees may be lost in the near future because of their poor condition which would then break up the group leaving the remaining trees one sided, prone to wind damage and reducing the group amenity value.

There are now only 3 of the 4 individual trees remaining on the site. Two of these trees reference T55 and T56 will remain in the grounds of 18 Lancaster Road. T50 Ash has recently been pollarded and T51 Poplar was felled years ago and never replaced.

On the west boundary with Sherbourne Avenue there are numerous trees consisting of Maple, Birch, Conifers, Hazel, Willow and Cherry with shrubs such as Buddleia. None of these trees

along this border are protected by a preservation order and no individual tree is individually outstanding to warrant protecting due to their small size and condition. A good landscaping scheme to the frontage of this development would easily outweigh the trees lost.

There are other unprotected trees on the site consisting of Poplars 8-10 metres into the site from the southern boundary with a row of fruit trees just further in and a single Goats Willow near to the centre of the site.

The only tree in my view that is worth retaining is the Sycamore reference T55. It is proposed that this tree is retained in the rear garden of 18 Lancaster Road however the trees rooting environment will still be in the development site so will need protecting throughout any land stripping and development. There should also be a 10 metre distance stand off from the tree where no new development should take place.

I therefore have no objections to the application as long as the following conditions are attached:

- A landscaping scheme is submitted which should concentrate on new tree planting to the frontage off Sherbourne Avenue and the southern and east boundaries where protected trees have been and will be lost. The landscaping scheme should indicate which trees are replacement trees for the 5 outstanding protected replacement trees still required from G14 and replacement trees for those protected trees lost through the development.*
- A 10 metre protection zone to the south of T55 Sycamore into the site should be establish where no development takes place and only a final soft landscaping scheme within the trees 7.5 metre root protection area.'*

5.7.2

Having regard to the comments raised by the Tree Officer above it is considered that a combination of tree removal (which may need to be the subject of a separate application) and the submission of a revised soft landscaping scheme to include replacement trees would be an appropriate solution to accept the development proposals. Planning conditions can be imposed having regard to policy CS9 of the Core Strategy and the wider NPPF to ensure replacement planting is secured as well as appropriate protection measures are put in place for any retained features in and around the application site boundary.

- 5.7.3 In addition to the comments above, **Derbyshire Wildlife Trust** (DWT) have also been involved in an ongoing consultation exchange in respect of the application proposals having regard to potential loss of biodiversity and habitat and the potential impact of the development proposals upon protected species. This exchange has resulted in the delay between the date of the application submission (early 2016) and this final report / recommendation. Recorded responses from DWT dated 15 March 2016, 06 December 2016 and 20 November 2017 are of relevance.
- 5.7.4 The initial response from DWT raised concerns about the absence of any ecological survey / appraisal accompanying the application submission; particularly given the fact DWT held records of hedgehog, badger, fox and grass snake for the local area. DWT commented, *'in the absence of ecological information it is not possible to determine the extent of the ecological impacts that the proposed development may have on habitats and species of interest. From reviewing aerial photographs of the site and the submitted planning information the site may be of interest for roosting (within trees) and foraging bats, nesting birds, badger, hedgehog and reptiles. The proposed development has the potential to result in negative impacts on these species given the proposal to construct new dwellings.'*
- 5.7.5 The comments of DWT were relayed back to the applicant / agent who commissioned the undertaking of a desk based Ecological Assessment by Arbtech which was submitted in November 2016 for consideration.
- 5.7.6 Further comments from DWT on the findings of the report were received which stated, *'the ecological survey report as it currently stands does not provide adequate survey work for great crested newt, foraging bats, reptiles or birds. The loss of 80% of the vegetation/habitats within the site will result in a potentially significant loss of habitat and it will be important in advance of a planning decision to understand the importance of the site for local wildlife'*.
- 5.7.7 The comments of DWT were again forwarded to the applicant / agent for consideration which led to applicant commissioning a reptile survey being undertaken. This work was done by Peak

Ecology in October 2017 and the findings submitted for further consideration.

- 5.7.8 The latest comments from DWT were as follows, *‘A Reptile Survey report has been submitted as part of the above planning application. Survey visits were carried out towards the end of the survey season, however temperatures are considered acceptable. No reptiles were recorded on any survey visit. We support the recommendations made in Section 4.2.1, including to dismantle any rubble or brash piles by hand on a warm day. This should avoid core winter months of November to February, unless recently created, to avoid harm to hibernating animals’*. DWT did however advise that from a quick review of their previous comments, it looks like there are numerous other comments which still need addressing.
- 5.7.9 The outstanding observations from DWT relate to the need for further survey work to be undertaken to establish whether the site is being used for bat foraging and to establish the level of bird interest in the site.
- 5.7.10 Notwithstanding the comments of DWT above the site is a private garden, which with the exception of the few remaining protected trees, could be cleared in its entirety resulting in the loss of the habitat DWT are still insisting is surveyed. This is not considered to be a reasonable. Whilst the site could be being used for bat foraging and by visiting / nesting birds, appropriate ecological enhancement measures can be required to be provided alongside development (such as bird and bat boxes and targeted soft landscaping species) which can be conditioned to be incorporated in any development scheme to ensure there is a biodiversity balance maintained.
- 5.7.11 In its current form the application is only outline in nature and therefore should permission be granted any reserved matters submission will be expected to secure a net gain in ecological enhancement under the provisions of policy CS9 of the Core Strategy. This would be considered concordat with the reflecting aspirations of the Tree Officer, who is also seeking compensatory planting as part of any development scheme. This would form part of the details of landscaping, which is a reserved matter.

5.8 **Community Infrastructure Levy (CIL)**

5.8.1 Having regard to the nature of the application proposals the development comprises the creation of new dwellings and the development is therefore CIL Liable. The site the subject of the application lies within the medium CIL zone and therefore the full CIL Liability would be determined at the reserved matters stage on the basis of a cumulative charge of £50 per sqm (index linked) of gross internal floor area created.

5.8.2 The following advice note will be appended to any subsequent decision notice drawing this to the applicants' attention:

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

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by neighbour notification letters sent to 18 adjoining / adjacent properties on 23/02/2016.

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

The Barn, St Johns Road

The proposed development will have a seriously detrimental impact on my standard of living. Since moving to my property 31 years ago the site of the proposed development which is immediate to my paddock, has been open space and a wildlife area. A development so close to the boundary will have an

adverse impact on the environment I enjoy. The habitat of the area will be adversely affected too;

The proposed development will have an impact on protected trees; The development of your residences, one of which is very close to the boundary of The Barn's paddock, will create an adverse impact on the privacy and it will be significantly overlooked – contrary to the human rights act article 1 and 8; and

There is an added objection as outlined in the response by the Coal Authority – the development may impact adversely on the ground stability of my land.

Grove Hill, 136 St Johns Road

I strongly object to the application and the development of a close of houses in this location;

I acknowledge the neighbourhood contains a mix of dwellings but I think it is important that the character of any new development should try and respect the boundaries, context and character of the area. Your SPD states the provision of cul-de-sacs should be avoided;

The proposed development goes against the design recommendations of your policy. In my view new development should define and enhance Sherbourne Avenue by placing the entrances and drives to housing along the street frontage rather than creating an inappropriate cul-de-sac; and

The area the subject of the proposed development have been the subject of environmental problems in the past as the former site of a Pottery and associated clay works. I also therefore have concerns about impacts in relation to land and drainage which the plans do not address properly.

24 Lancaster Road

I would like to object to the development proposals on two issues: Firstly I don't believe Lancaster Road or Sherbourne Avenue are substantial enough to cope with the increased traffic volume the planning development would cause as both are narrow and the majority of time Lancaster Road is single lane due to parked cars; and

Secondly on nature and conservation the site is used by a lot of small song birds as a feeding habitat and its loss would cause numbers in the area to decline. There would also be a decrease in air quality as exhausts from construction traffic and new residents vehicles would have an impact on health.

6.3 ***Officer Response: See sections 55.3, 5.4, 5.5, 5.6 and 5.7 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 objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control.

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

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the

development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

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

9.0 **CONCLUSION**

- 9.1 The proposals are considered to be appropriately designed such that they are considered in keeping with the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. As such, the proposal accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

- 9.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS10 of the Core Strategy and the wider NPPF in respect of drainage, flood risk, land condition and contamination.

10.0 **RECOMMENDATION**

- 10.1 It is therefore recommended that the application **GRANTED** subject to the following conditions / notes:

Conditions

Time Limit etc

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

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

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

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

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

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

Drainage

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

Reason - In the interest of satisfactory and sustainable drainage.

05. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason - To ensure that the development is appropriately drained and no surface water discharges take place until proper provision has been made for its disposal.

Site Investigations / Contamination / Noise

06. A. Development shall not commence until details as

specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
 - II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.
 - III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.
- B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.
- C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

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

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

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

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

Reason - In the interests of residential amenities.

Highways

09. Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Sherbourne Avenue in accordance with details to be submitted and agreed at reserved matters / full planning application stage with such access being provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access to the extremities of the site frontage abutting the highway in both directions. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

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

Reason – In the interests of highway safety.

11. The proposed access and any individual driveways to Sherbourne Avenue shall be no steeper than 1 in 14 over their entire lengths.

Reason – In the interests of highway safety.

Ecology

12. Prior to the commencement of development details of ecological enhancement measures that shall include details of bird and bat boxes (positions/specification/numbers) shall be submitted to and approved in writing by the LPA. Replacement native tree planting should also be included, along with other ecologically beneficial landscaping. Such approved measures shall be implemented in full and maintained thereafter.

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

13. No removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written

confirmation should be submitted to the local planning authority.

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

14. No open trenches or holes should be left open overnight to ensure that mammals such as badger, fox or hedgehog are not trapped. If the holes or trenches cannot be back filled then a ramp should be installed to allow animals to escape.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against in accordance with policy CS9 and the National Planning Policy Framework.

15. Prior to the commencement of development, a detailed external lighting strategy should be submitted to and approved in writing by the LPA. Such approved measures should be implemented in full and maintained thereafter.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against in accordance with policy CS9 and the National Planning Policy Framework.

Others

16. Concurrent with the first reserved matters submission the application shall be accompanied by a design statement which sets out how and where the development will incorporate electric vehicle charging facilities. Only those details which receive subsequent approval shall be implemented, as approved, and retained in perpetuity.

Reason – In the interests of promoting the use of more sustainable methods of transportation in accordance with policy CS20 of the Core Strategy.

17. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration.

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

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

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

Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

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

19. Development shall not commence until details for the erection of fencing for the protection of trees on and/or adjacent to the site have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority. The fencing shall be undertaken as approved before any equipment, machinery or materials have been brought onto the site for the development and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any areas fenced in accordance with this condition and the ground levels within these areas shall not be altered, nor any excavation made, without the prior written consent of the Local Planning Authority.

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

20. No development shall take place until full details of all proposed tree planting, and the proposed times of planting, have been submitted to the Local Planning Authority and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority. All tree planting shall be carried out in accordance with the approved details and times.

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

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
03. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross

Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may be eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.

Highways

04. The Highway Authority recommends that the first 6m of the proposed access driveway(s) should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
07. Car parking provision should be made on the basis of 1.5no, 2no. or 3no. spaces per 1 bedroom, 2/3 bedroom or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 5.5m (with an additional 0.5m of width to any side adjacent to a physical barrier) with adequate space behind each space for manoeuvring.

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

Drainage

09. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.