

Case Officer: Joe Freegard
Tel. No: (01246) 345580
Committee Date: 29th January 2018

File No: CHE/17/00725/FUL
Plot No: 2/1497

ITEM 1

Proposed demolition of existing site buildings and construction of two dwellings with associated infrastructure at land adjacent to 756 Chatsworth Road, Chesterfield, Derbyshire, S40 3PN

Local Plan: Green Belt
Ward: West

1.0 CONSULTATIONS

Ward Members	No representations received
Environmental Services	No objections
Design Services	No objections
Yorkshire Water Services	No comments
DCC Highways	No objections
The Coal Authority	No objections
Tree Officer	No objections
Urban Design	No comments
Derbyshire Wildlife Trust	No objections
Natural England	No objections
Neighbours/Site Notice	Seven neighbour representations received – see report Objection from County Cllr J Boulton.

2.0 **THE SITE**

2.1 The site the subject of the application comprises land known as the former Proctors/Brookside Nursery forming land adjacent to 756 Chatsworth Road, in the West ward area of Chesterfield. The site area is comprised of a former plant nursery that has been disused for a number of years. The site accommodates a range of vacant buildings and greenhouses with areas of rough grassland and hardstanding present.

2.2 The site is enclosed on three sides by existing residential development and associated residential curtilage. To the North lies 752, 754 and 756 Chatsworth Road, to the East lies Lutyens Court, and to the West lies 760, 760A and 760B Chatsworth Road. Further to the West, the nursery site is adjacent to a small private park (Belmont Park), with mature vegetation to the boundaries which separates the built edge of Chesterfield from the settlement of Holymoorside to the South West. Open countryside, forming agricultural fields, lies to the South of the application site. This is part enclosed by the Western extent of Chesterfield to the East and South East (beyond the River Hipper at Yew Tree Drive), with Holymoorside (and Holymoore Road) to the West and South West. The application site is located to the South West of the administrative area of Chesterfield Borough Council, being located within designated Green Belt.





3.0 Relevant Site History

- 3.1 Pre-application enquiries have been made over recent years for residential redevelopment schemes ranging from between 3 and 6 units.
- 3.2 An application was made in 2015 for residential development off the existing access drive of up to 3 dwellings (revised plans and information received 14/4/16) on land at Brookside Nurseries under CHE/15/00123/OUT. This application was subsequently withdrawn.

4.0 THE PROPOSAL

- 4.1 A full application has been made for the proposed demolition of the existing site buildings and the construction of two dwellings with associated infrastructure.
- 4.2 Extensive clearance of the site would be required to cater for this proposed development. An application form, Design and Access Statement, site location plans, plans and elevations, ecological appraisal, bat survey, landscape masterplan, landscape and visual appraisal, landscape management plan, site analysis plan, and technical highways note have been submitted with this application.

- 4.3 The site layout indicates that the proposed new dwellings would be roughly T-shaped in footprint, with a combined volume of approximately 1,796 cubic metres. The demolition and removal of existing buildings with a combined volume of 1,939 cubic metres would take place in order to allow for this development. The proposed new dwellings are of an innovative modern design, incorporating living roofs, extensive areas of glazing, natural stone and cladding. The dwellings would be relatively low slung, making use of shallow mono-pitched roofs, with attached double garages and stores. The dwellings are proposed to measure a maximum of approximately 6M in height, 17M in width and 20M in depth.
- 4.4 The site is set back from Chatsworth Road and would be accessed via an existing driveway that currently serves 756, 758, 790, 790A and 790B Chatsworth Road. One dwelling is proposed to be situated to the East of the end of this existing driveway, identified as plot 1. A further dwelling is proposed to the East of this, identified as plot 2. Vehicular and pedestrian access to each dwelling is proposed to the North of each plot, with the main garden areas to the dwellings situated to the South of each plot. The dwellings are proposed to be situated approximately 80M from Chatsworth Road itself, which is located to the North of the site. Neighbouring properties to the North of the site would be approximately 50M away from the proposed new dwellings, on Chatsworth Road. Neighbouring properties to the East of the site are proposed to be situated approximately 10M away from the proposed new dwellings, on Lutyens Court. The closest neighbouring property to the West of the site is proposed to be situated approximately 30M away from the proposed new dwellings, 790 Chatsworth Road. To the South of the site are fields, where there are no neighbouring properties.
- 4.5 The new dwellings are proposed to comprise entrance, hallway, lounge, kitchen, dining room, study, WC, storage and double garage at ground floor level. At first floor level, the dwellings comprise four bedrooms, two en-suite bedrooms, two balconies, hallway and bathroom. The internal spaces appear to be appropriate and fit for purpose,

offering generous dimensions. Areas of garden are proposed to surround the properties, with extensive landscaping shown on the plans including a garden meadow, dining terrace, water feature and other areas of hard and soft landscaping immediately to the South of each dwelling, with further landscaping to the North of the site and living roofs to the new dwellings themselves. Ample on site car parking provision is proposed, and bins are expected to be situated in the storage areas proposed at ground floor level.

5.0 **Considerations**

Local Plan Issues

- 5.1 The Strategic Planning Policy Team consider that available evidence indicates that the primary use of the land was and still is (by reason of an implemented planning permission) horticulture and not a mixed use. Horticulture falls within the definition of agriculture and as such is not previously developed land as defined by the NPPF. The site is within the Green Belt area and protected species have been evidenced within the site.
- 5.2 The site is however within reasonable walking and cycling distance of a local centre and has reasonable access to bus services to Chesterfield Town Centre, Matlock and Sheffield. As such the proposal would be located appropriately in relation to Core Strategy (CS) policy CS1 notwithstanding green belt considerations. The proposal would accord with the majority of criteria in policy CS2 with the exception of it not meeting criterion (b), in that the site is not within the definition of previously developed land (PDL).
- 5.3 The site's exclusion from the definition of PDL is significant in that policy CS10 applies and because the proposal would be inappropriate development in green belt as assessed against the NPPF. However, the proposal appears to be one of few (if any) other options to regenerate the site and if this is clearly the case, then it would accord with policy CS2(ii) and could be accepted as an exception to other Local Plan policies that would normally restrict housing development in such a location. Policy CS2 (ii) provides an opportunity to accept development if it "*is required to regenerate sites and*

locations that could not otherwise be addressed or to support existing community facilities that would otherwise be at risk of closure”.

- 5.4 The purpose of policy CS10 is to ensure a supply of housing that meets the overall aims of the Core Strategy. Policy CS10 only permits housing-led greenfield development in the absence of a deliverable 5year housing land supply and where proposals accord with the Local Plan spatial strategy or a specific housing need is to be met. Currently the Council can demonstrate a deliverable 5yr supply of housing land and given this the proposal would not accord with policy CS10, despite being in a location compatible with the spatial strategy of ‘concentration and regeneration’ set out in policy CS1.
- 5.5 Furthermore the site is home to protected species and also contains various habitats. To accord with CS policy CS9 the proposal must demonstrate that the loss of the habitats is unavoidable and that alternative and better provision is to be made including mitigation where possible, compensation and enhancements to achieve a net gain in habitat. New habitat should focus on the priority habitats set out in the Chesterfield Greenprint and the Derbyshire Lowland Biodiversity Action Plan.
- 5.6 The issue of air quality is currently in focus given the Government’s recent commitment as part of a zero emission vehicle alliance to ensure that ‘almost every car and van is a zero emission vehicle by 2050’. Core Strategy policy CS20 expects development such as that proposed to demonstrate the provision of opportunities for charging electric vehicles where appropriate. Provided there are no overriding material considerations such as viability. The Strategic Planning Policy Team consider a charging point should be secured by condition as required by policy CS20. Core Strategy policy CS8 lends further weight to the requirement for provision of a charging point, given that cumulatively such small urban infill is likely to materially increase vehicular emissions within the borough sufficiently to prejudice the aims of local and national air quality strategies, unless mitigation is put in place.

- 5.7 The main policy issue is that the site is within green belt. The Council currently has no intention to review green belt within the Borough's boundary as currently no exceptional circumstances are deemed to exist to warrant such a process. Given that the site is not on PDL the proposed new development would represent inappropriate development in green belt. (new residential development) Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (NPPF para87). Accordingly substantial weight should be given to the harm on green belt by reason of inappropriateness, of the proposed development. Very special circumstances need to be demonstrated by the applicant that would clearly outweigh the harm by inappropriateness and any other harm from the development.
- 5.8 The proposal performs relatively well against the overall aims and objectives of the Core Strategy in that it would make a contribution to meeting housing requirements in a location accessible to public transport, services and facilities, could provide for biodiversity mitigation and also subject to conditions there is an opportunity for an overall enhancement in terms of biodiversity (inclusive of protected species), and it would provide some visual amenity benefit by removing derelict horticultural structures from open countryside. Whilst the proposal would not strictly accord with policy CS10 there may be few other (if any) realistic options to achieve the consequent visual amenity and (potentially) biodiversity improvements. If the development is clearly required to regenerate the site it could be argued to be in accordance with policy CS2(ii), which in broad terms permits development in alternative locations that may not be in strict accordance with the council's spatial strategy.
- 5.9 It is considered that the planning benefits in this case are sufficient cumulatively to warrant the very special circumstances necessary to outweigh any identified harm. The main function of the green belt is to maintain openness and prevent coalescence of urban settlements. The volume of development proposed is less volume than that of the existing structures on site, and would not project as far into the open green belt land to the South of the site. Although

the proposed new dwellings are fairly large in scale, the height of the dwellings is modest and the properties would not project as far South as neighbouring properties on Lutyens Court, to the East or 760A to the West. As such, it is considered that the proposed plans would result in a potential improvement to openness as a result of the proposed building volume, layout, scale, appearance and massing. The proposed development would improve the aesthetics of the site by replacing a series of unattractive unused former horticulture buildings with high quality dwellings, and the proposed living roofs would further reduce any impact on the green belt when viewed from the south. Not all the site is included within the residential curtilages which have been restricted limiting the built form to closely relate to the existing urban area to the north. It is necessary however to secure delivery and compliance with the submitted Landscape Management Plan for the remainder of the site to ensure it is maintained in the interests of openness and biodiversity value.

Design and Appearance (Including. Neighbour Effect)

- 5.10 It is considered that the innovative design and materials of the proposed new properties are of a high quality and would complement the surrounding locality. The modest height, use of living roofs and limited projection to the South of the site would also ensure that any impact on the openness of the green belt would be minimal. A condition should be imposed requiring the submission of details of the material samples, to ensure that these are appropriate in terms of quality, shade and detailing.
- 5.11 Having regard to the proposed layout, plans and elevations, it is expected that the development may impose the greatest degree of change to neighbouring properties on Lutyens Court, to the East of the site. The properties on Lutyens Court would be separated from the new houses by at least 10M, and it is considered that this level of separation would be sufficient to prevent any significant issues in terms of overshadowing or an overbearing impact. First floor bathroom windows are proposed to the East elevation of plot 2, and as such it is considered necessary to impose an obscure glazing condition to prevent any issues with

overlooking from these windows. The nearest other neighbouring properties would be situated at least 30M away from the proposed new dwellings, and it is considered that this level of separation would prevent any significant issues in terms of overlooking, overshadowing or an overbearing impact.

- 5.12 The 'Successful Places' SPD indicates that a new four bedroom dwelling would require a minimum of 90 Square Metres of outdoor amenity space. The site calculations indicate that the proposed new dwellings would have outdoor amenity spaces that far exceed guidelines and are therefore considered to be acceptable.
- 5.13 Whereas it is accepted that the development imposes an impact upon boundary sharing neighbours, in this instance there is a case to argue that this impact would be minimal, due to the proposed layout, low slung design, separation distances, the orientation of the site and the relationship between properties.
- 5.14 In the context of the provisions of Policies CS2 and CS18 of the Core Strategy and the material planning considerations in relation to neighbour impact, it is concluded that the development is designed to prevent any significant adverse impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours. As such, the development is considered to be acceptable in terms of these policies.

Environmental Services

- 5.15 Environmental Services were consulted on this application and have raised no objections. It was recommended that as the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017), that infrastructure for electric charging points be installed as part of the build phase.

- 5.16 In response to these comments, it is considered appropriate to impose a condition requiring electric charging points to be installed as part of the build phase in the interests of reducing emissions.

Design Services

- 5.17 Design Services have been consulted on this application and have raised no objection. They stated that the area is not shown to be at risk according to the Environment Agency flood maps. The application indicates that surface water will be disposed of using sustainable drainage. If it is planned to use infiltration drainage then they would wish to see percolation tests of the subsoils prior to approval to ensure that soakaways are suitable for use at this site. The soakaway should be designed in accordance with BRE Digest 365 to ensure that no flooding occurs during a 30 year design storm and no flooding to property occurs during a 100 year storm. The applicant will also need to contact Yorkshire Water for any connections to the public sewer.

- 5.18 In response to these comments, it is considered necessary to impose a condition requiring the submission of drainage details for approval in the interests of sustainable drainage.

Highways Issues

- 5.19 DCC Highways have raised no objections. They reiterated their response to pre-application discussions DCC Highways where it was concluded that 'in the event of a formal application being submitted for the development of two dwellings and all other uses of the site ceasing, preferably including improvements to the access layout it is considered unlikely the Highway Authority would raise any objection'.
- 5.20 The County Highways Officer states that the properties will be located some distance from the publicly maintainable highway and as such, consideration needs to be given to the following:- Refuse/recycling collection – a bin dwell area should be provided for refuse/recycling collection days clear of the highway and access on the basis that such vehicles will not enter the site. It should be of sufficient dimensions to accommodate the maximum number of bins on any one

collection day. Manoeuvring should be provided within the site curtilage for smaller service/delivery vehicles e.g. supermarket delivery to allow such vehicles to enter and exit the site in a forward gear.

5.21 DCC Highways state that subject to the above matters being satisfactorily resolved there are no objections to the proposal and it is recommended that the following conditions are included in any consent:

- A revised plan demonstrating manoeuvring suitable for smaller service/delivery vehicles and a bin dwell area and sufficient hard paved frontage in front of the garages for vehicles to manoeuvre to enter and exit the site in a forward gear.
- No dwelling shall be occupied until space has been 2.laid out within the site in accordance with the drawing approved under the bullet point above for cars to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear.
- 3.The garages to be kept available for the parking of vehicles at all times.
- 4.The proposed driveways to the individual properties shall be no steeper than 1:14 over their entire length.

5.22 In response to these comments, it is considered necessary to consider any fall back position which may exist. The site was last occupied as a commercial nursery and whilst it has been vacant for a number of years, this use remains the authorised use and which can be reintroduced at any time without the need for any further planning permission. Whilst in a poor state the existing buildings remain suitable for nursery use. This is a significant fall back position which needs to be considered. A commercial nursery site will attract traffic and it is considered appropriate that this is replaced by the traffic associated with 2 dwellings such that the impact on highway safety is unlikely to be significant. Apart from the condition regarding driveway gradients (which is not justified as a result of the generally level site) it is appropriate to impose the suggested conditions in the

interests of highway safety and parking provision. It is acknowledged that the entrance drive to the site is relatively narrow with limited passing or turning places, however it is not considered that the introduction of two new dwellings would result in any significant additional impact. It is not considered that any impact that may be caused would necessarily be any more significant than that of the nursery being brought back into use. This can be done as a result of the last existing use, and may result in further impact in terms of highway safety. The application in question would result in the nursery use ceasing.

The Coal Authority

- 5.23 The Coal Authority was consulted on this application and have raised no objections.

Tree Officer

- 5.24 The Tree Officer stated that the development would result in the removal of the old nursery buildings and vegetation within the site which include self-set trees and shrubs from its former use and natural succession. As stated in the Design and Access statement by Mitchell Proctor Architects, the existing mature trees and hedgerows on the boundaries will be retained. An Ecological Appraisal by James Frith Ecological Consultants dated February 2017 has been submitted and has highlighted the need for a tree protection plan to be submitted at a later date. A condition should therefore be attached if consent is granted to the development for a tree protection plan to be submitted and approved and implemented before any demolition, soil stripping or construction commences on site to ensure that the retained trees on and adjacent to the site are not damaged during these phases.
- 5.25 A further condition should be attached stating that the hedgerow and trees on the northern boundary of the site and to the rear of the properties along Chatsworth Road are to be retained. Further details should also be submitted showing the access layout directly off Chatsworth Road and adjacent to T58 Oak of the above mentioned tree preservation Order to show how this affects the protected tree. Details should

include excavations required with existing and proposed levels and construction details and specifications. The Tree officer has no objection to the proposal as long as the conditions above are attached and details of the access are submitted and approved before construction on the site commences.

- 5.26 In response to these comments, it is considered necessary to impose the suggested conditions in the interests of the protection of trees however it is clear from the application that no changes are to be made to the driveway and therefore within the proximity of T58 oak.

Derbyshire Wildlife Trust

- 5.27 Derbyshire Wildlife Trust stated that a full desk study has been undertaken as part of the Ecological Appraisal including:
- Updated Ecological Appraisal. James Frith. October 2017.
 - Updated Bat Survey Report. JT Ecology. October 2017.

- 5.28 The Trust support the assessment and recommendations made in the Ecological Appraisal. Bat survey work at the site has identified a day roost of brown long-eared bats in Building 3 and a maternity or satellite roost of the same species in Building 2. Both buildings are being demolished as part of the proposals and therefore a European Protected Species licence will be required from Natural England prior to demolition. Detailed mitigation will be provided within the licence application. As the report states, a new roost space should be provided of either equivalent or appropriate size. Bat boxes would not provide an appropriate roost alternative in this instance. The report indicates that the proposed buildings are not suitable to include a brown long-eared roost space and that a stand-alone building should be created to provide roosting opportunity. The exact mitigation strategy will be approved by Natural England at the licensing stage but providing that a like-for-like roost space is provided as part of the works and that all works proceed in accordance with a Natural England licence, Derbyshire Wildlife Trust has no further comments in relation to bats.

5.29

Derbyshire Wildlife Trust stated that should the council be minded to grant planning permission, they recommend that the following conditions are attached:

- Prior to the demolition of buildings with confirmed bat roosts, a European Protected Species licence must be obtained from Natural England and all works should proceed in accordance with this document. The licence application should include a detailed lighting strategy.
- No works shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
- Best practice measures to protect badgers and other wildlife shall be implemented during site clearance and construction, including:
 - a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) open pipework greater than 200 mm outside diameter shall be blanked (capped) off at the end of each working day.
 - c) appropriate storage of chemicals on site.
 - d) if any badger holes are uncovered during scrub clearance, works shall cease and an ecologist will be contacted for advice.
- Prior to the commencement of development, a biodiversity enhancement strategy shall be submitted to and approved in writing by the Council. This should include bird nesting provision to replace the opportunities to be lost within the derelict buildings and may include other enhancements suggested in Section 5 of the Ecological Appraisal report. Such approved

measures should be implemented in full and maintained thereafter.

5.30 In response to these comments, it is considered necessary to impose the suggested conditions in the interests of biodiversity.

6.0 Community Infrastructure Levy (CIL)

6.1 Having regard to the nature of the application proposals the development comprises the creation of new dwellings and the development is therefore CIL Liable as follows.

Plot	New GIF sqm	Calculation	Total
Plot 1	255	255 x £80	£20,400
Plot 2	255	255 x £80	£20,400
Total			£40,800

7.0 REPRESENTATIONS

7.1 As a result of neighbour notification, objections have been received from 7 neighbouring addresses and 1 councillor as follows:

7.1.1 County Councillor John Boulton:

- Site in green belt where former nursery use was compatible. Residential is not;
- The access already serves 5 dwellings, is 80m long and 4 m wide obstructed by landscape making it difficult form refuse collection and emergency service vehicles;
- Result in up to 14 wheelie bins along Chatsworth Road which will be an obstruction to pedestrians;
- Highway safety concerns.

7.1.2 3 Lutyens Court:

- Site is green belt and not brownfield. A policy objection - contrary to Core Strategy. Not aware that the Council has agreed any significant green belt developments. This scheme should be no different;
- The properties are not affordable housing;

- The access is a huge problem and restricts refuse vehicles. Construction traffic will obstruct. Any access should be two way;
- No need for such sized properties in Chatsworth Road area. Already plenty of such property for sale in area.

7.1.3 5 Lutyens Court:

- Site is green belt;
- Contrary to Core Strategy Strategic Objective S11 concerning maintenance and enhancement of green belt area;
- Contrary to NPPF regarding green belt – residential development not appropriate in green belt – not demonstrated any very special circumstances;
- Site is not previously Developed Land – It is defined as agriculture;
- Impact on privacy as 5 Lutyens Court is 2 metres below the site. The development will overshadow and have a severe impact on privacy and right to peaceful enjoyment of their home;
- Overlooking of gardens and bedrooms;
- Consideration of Human Rights Act –article 1 and 8.

7.1.4 758 Chatsworth Road:

- Inadequate access – already 5 properties use the driveway;
- Access too narrow – difficulty with fire engine access. Not designed for modern vehicle use. Guideline widths should be 3.2 metres. The existing drive is far narrower. Concerns regarding suggested removal of step to improve width;
- Conflict as vehicles attempt to pass at Chatsworth Road frontage;
- Damage to property due to close proximity to access;
- Use of unsubstantiated data re traffic flows;

7.1.5 760 Chatsworth Road:

- Don't object to development of derelict site but object to use of existing access. When the site was a nursery large, vehicles parked on Chatsworth Road and goods were transported down the access by van. The access is not wide enough for construction traffic. They would

be the neighbour most affected. They have to reverse out into the access which is difficult.

- Likely damage to neighbouring property by large vehicles using access;
- Intensification of use of access – can take 3 – 5 minutes to get out onto Chatsworth Road.
- Inconvenience to others using driveway.

7.1.6 1 Lutyens Court:

- Site is green belt;
- Contrary to Core Strategy Strategic Objective S11 concerning maintenance and enhancement of green belt area;
- Contrary to NPPF regarding green belt – residential development not appropriate in green belt – not demonstrated any very special circumstances;

7.1.7 760A Chatsworth Road:

- Object to use of existing driveway. The services to all 5 dwellings accessed off the drive are contained in the drive and it is in a vulnerable condition;
- The access should be a 2 way road in the same way as what was required for Lutyens Court;
- Difficulties will arise where drive joins Chatsworth Road;
- Green belt land.

7.1.8 23 Brookside Bar:

- Site is green belt. Contrary to Core Strategy concerning maintenance and enhancement of green belt area;
- Contrary to NPPF regarding green belt – residential development not appropriate in green belt – not demonstrated any very special circumstances;
- Site is not previously Developed Land – It is defined as agriculture;
- Contrary to policy CS9 and CS10 of Core Strategy
- Object to use of existing driveway which already accesses 5 dwellings;
- The access is too narrow with no adequate turning facility. Difficulty with emergency vehicle access.

- Difficulties will arise where drive joins Chatsworth Road;
- When a nursery large vehicles parked on Chatsworth Road and goods were transported down the access by van. The access is not wide enough for construction traffic.
- Intensification of use of existing drive.
- Impact on Ecological value of site

7.2 ***It is acknowledged that the proposed development is situated in the green belt and is technically contrary to policy as a result of this. In response, it is considered that the planning benefits are sufficient cumulatively to warrant the very special circumstances necessary to outweigh any identified harm. The volume of development proposed in the built form is less than that of the existing structures on site, and would not project as far into green belt land to the South of the site. The height of the dwellings would be modest, the properties would not project as far South as neighbouring properties on Lutyens Court and 760A to the west, and the plans would result in the removal of a series of derelict structures scattered around the site. The scheme also brings with it a maintenance and management plan for the remainder of the site. As such, it is considered that the proposed plans would result in an improvement in so far as the openness of the green belt.***

7.3 ***In reference to overlooking, overshadowing, and a loss of light, it is not considered that these would be significant issues for any neighbouring properties subject to obscure glazing at first floor level to the East elevations. This is as a result of the proposed layout, low slung design, separation distances, the orientation of the site and the relationship between properties.***

7.4 ***In reference to highway safety, a lack of passing places, and inadequate turning space, it is not considered that these would be significant issues subject to the imposition of conditions. It is not considered that the introduction of two new dwellings would result in any significant additional impact and there have been no***

objections from DCC Highways. It is not considered that any impact that may be caused would necessarily be any more significant than that of the nursery being brought back into use. This can be done as a result of the last existing use, and may result in further impact in terms of highway safety. The application in question would result in the nursery use ceasing.

7.5 ***In reference to the impact on ecology, there have been no objections from Derbyshire Wildlife Trust or Natural England, subject to the imposition of conditions. With regards to disruption during construction, a condition should be imposed restricting working hours during construction in order to reduce the impact on neighbouring residents. It is acknowledged that some level of noise and disruption would be caused by the development, however it is considered that the imposition of such a condition would ensure that this was kept to a minimum and such impacts are likely to only be temporary during construction works. In terms of visual impact, it is considered that the proposed development would improve the aesthetics of the site by replacing a series of unattractive horticulture buildings with high quality dwellings. In terms of affordable housing, there is no requirement to provide any for a scheme of this scale. In reference to the latter point, it is considered that a demand for houses of this size is likely to exist given that an application of this nature has been made.***

8.0 HUMAN RIGHTS ACT 1998

8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective

- The interference impairs as little as possible the right or freedom

8.2 It is considered that the recommendation is objective and in accordance with clearly established law.

8.3 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.

8.4 Whilst, in the opinion of the objectors, the development affects amenities and the green belt, 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.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 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).

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

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

10.0 CONCLUSION

- 10.1 It is considered that the planning benefits are sufficient cumulatively to warrant the very special circumstances necessary to outweigh any identified harm. The volume of development proposed is less than that of the existing structures on site, and would not project as far into green belt land to the South of the site. Although the proposed new dwellings are fairly large in scale, the height of the dwellings would be modest and the properties would not project as far South as neighbouring properties on Lutyens Court, to the east and 760A to the west. As such, it is considered that the proposed plans would result in an improvement to openness as a result of the proposed building volume, layout, scale, appearance and massing.
- 10.2 The proposed development would improve the aesthetics of the site by replacing a series of unattractive horticulture buildings with high quality dwellings, and the proposed living roofs would further reduce any impact on the green belt. The proposals are considered to be appropriate in terms of scale, form and materials, and would not have a significant unacceptable impact on the amenities of neighbouring residents or highway safety. It is considered that the design and materials are of a high quality that would complement the surrounding locality. The location of the proposed development site is sufficiently sustainable, is in a built up area and is adequately served by public transport and amenities. As such, the proposal accords with the requirements of policies CS2, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.
- 10.3 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 of the Core Strategy and the wider NPPF in respect of Highways, design, landscaping, biodiversity, trees and materials. This application would be liable for payment of the Community Infrastructure Levy. It is considered necessary to impose conditions removing Permitted Development rights and requiring full details of landscaping, in order to protect the aesthetics of the site and to prevent any adverse impact on neighbours.

11.0 **RECOMMENDATION**

11.1 That a CIL Liability notice be issued as per section 6.0 above.

11.2 That the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans with the exception of any approved non material amendment.
3. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority.
4. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
5. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling, roofing, and window and door 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.
6. 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.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.
8. Details of the proposed site cross sections showing existing and proposed land levels and the proposed finished floor level of the dwelling shall be submitted to the Local Planning Authority for consideration and written approval. Only the approved details shall be incorporated as part of the development, unless otherwise agreed in writing by the Local Planning Authority.
9. No development shall take place until full details of both hard and soft landscape works, bin storage and boundary treatments have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.
10. Prior to occupation of the development hereby approved the first floor windows in the East elevations of the properties shall be obscure glazed with a minimum obscurity level of 3 as referred to in the Pilkington Texture Glass Range leaflet, or nearest equivalent as may be agreed in writing by the Local Planning Authority. The obscured glazing shall be maintained as such thereafter.
11. Electric vehicle charging points shall be installed as part of the build phase and which shall be retained available for use for the life of the development.
12. Prior to any demolition, soil stripping or construction commencing on site a tree protection plan shall be submitted to the local authority for approval in writing and shall be implemented.

13. The hedgerow and trees on the northern boundary of the site and to the rear of the properties along Chatsworth Road shall be retained.
14. Prior to development commencing, further details shall be submitted to the local authority for approval in writing showing the access layout directly off Chatsworth Road and adjacent to T58 Oak to show how this affects the protected tree. Details should include excavations required with existing and proposed levels and construction details and specifications. Only the approved plans shall be implemented.
15. Prior to the demolition of buildings with confirmed bat roosts, a European Protected Species licence shall be obtained from Natural England and all works should proceed in accordance with this document. The licence application should include a detailed lighting strategy.
16. No works relating to removal of any landscaping shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
17. Best practice measures to protect badgers and other wildlife shall be implemented during site clearance and construction, including:
 - a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and

- b) open pipework greater than 200 mm outside diameter shall be blanked (capped) off at the end of each working day.
 - c) appropriate storage of chemicals on site.
 - d) if any badger holes are uncovered during scrub clearance, works shall cease and an ecologist will be contacted for advice.
18. Prior to the commencement of development, a biodiversity enhancement strategy shall be submitted to and approved in writing by the Council. This should include bird nesting provision to replace the opportunities to be lost within the derelict buildings and may include other enhancements suggested in Section 5 of the Ecological Appraisal report. Such approved measures should be implemented in full and maintained thereafter.
19. The Maintenance and Management of the land to the south of the residential curtilages as set out in the submitted Landscape Management Plan dated October 2017 shall be carried out in accordance with the report

Reasons

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. 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.
3. To ensure that the development can be properly drained and In the interest of satisfactory and sustainable drainage.
4. To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.
5. 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.

6. In the interests of residential amenities.
7. In the interests of the amenities of occupants of adjoining dwellings.
8. In the interests of residential amenities.
9. The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.
10. To safeguard the privacy of adjoining residents
11. In the interests of reducing emissions in line with Core Strategy policy CS20 and CS8
12. To ensure that the retained trees on and adjacent to the site are not damaged during these phases.
13. In the interests of the protection of trees.
14. In the interests of the protection of trees.
15. In the interests of the protection of bats.
16. In the interests of the protection of roosting birds.
17. In the interests of the protection of badgers and other wildlife.
18. In the interests of biodiversity enhancement.
19. In the interests of safeguarding the openness of the green belt and the biodiversity value of the land concerned.

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. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
04. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp
05. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.
06. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.

07. If planning permission is granted for the development which is the subject of this notice, liability for a Community Infrastructure Levy (CIL) payment is likely to arise. Persons with an interest in the land are advised to consult the CIL guide on the Chesterfield Council Website (<http://www.chesterfield.gov.uk/planning-and-building-control/planning-services/community-infrastructure-levy.aspx>) for information on the charge and any exemptions or relief, and to submit the relevant forms (available from www.planningportal.gov.uk/cil) to the Council before commencement to avoid additional interest or surcharges. If liable, a CIL Liability Notice will be sent detailing the charges, which will be registered as a local land charge against the relevant land.