

Case Officer: Joe Freegard File No: CHE/17/00814/OUT
Tel. No: (01246) 345580 Plot No: 2/1638
Committee Date: 3rd April 2018

ITEM 4

Erection of six 2 bedroom flats (Re-submission of previously approved application CHE/17/00251) – amended indicative plans received 12.03.2018 at Land at Chester Street, Chesterfield, Derbyshire for Woodleigh Motors Ltd.

Local Plan: Town District & Local Centre
Ward: Holmebrook

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategy Planning Team	Comments received – see report
Environmental Services	No objections
Design Services	Comments received – see report
Environment Agency	No objections
Yorkshire Water	No comments
Lead Local Flood Authority	No objections
DCC Highways	Comments received – see report
Coal Authority	Comments received – see report
Urban Design	No comments
Neighbours/Site Notice	One representation received – see report

2.0 **THE SITE**

2.1 The site concerned is land at Chester Street, close to Chesterfield Town Centre, within the Holmebrook area of the town. The site is allocated within the Local Plan as being within the Chatsworth Road Town District and Local Centre, and comprises a largely square shaped plot of land situated behind Chatsworth Road. The site is currently used for the parking of vehicles in connection with Woodleigh Motor Sales, and is covered by hardstanding with metal security fencing surrounding the perimeter. The site measures approximately 337 Square Metres in area, is on a relatively flat gradient, and is accessed via a gated entrance from Chester Street to the East of the site. An access road and Garages are situated to the North of the site, Chester Street and the Royal Oak public house are situated to the East of the site, shops with flats above on Chatsworth Road are situated to the South of the site, and rear gardens and yard areas to further shops with flats above are situated to the West of the site.





3.0 **RELEVANT SITE HISTORY**

- 3.1 An outline application for the erection of four 2 bedroom flats and associated parking - amended plans received 05/07/17 was approved in 2017 under application CHE/17/00251/OUT.

4.0 **THE PROPOSAL**

- 4.1 An outline application with all matters reserved has been made for the erection of six 2 bedroom flats (Re-submission of previously approved application CHE/17/00251) – amended indicative plans received 12.03.2018.
- 4.2 The amended plans include an indicative layout and elevations suggesting that the new building would have a T-shaped footprint and a pitched roof. The plans indicate that the property would be set over two stories with rooms in the roof space. These are purely indicative plans and may be subject to change, however the application is assessed on the basis of the information submitted and the likelihood of an appropriate scheme being possible for the site.
- 4.3 Clearance of the site would be required to cater for the proposed development. Indicative plans suggest that the entrance, parking provision, bike storage and bin storage would be to the Eastern front of the site. It is expected that outdoor amenity space would be provided to the Western rear of the site. These details and others would be dealt with at the Reserved Matters stage, as this application purely concerns the principle of six 2 bedroom flats on the site with all matters reserved matters for approval at a later date. The application is assessed on the basis of the application form, site location plan and supporting documentation alone.

5.0 **CONSIDERATIONS**

Local Plan Issues

- 5.1 The site is situated within the Holmebrook ward which comprises a mix of residential, retail, commercial and industrial properties. Having regard to the nature of the application, policies CS2 and CS18 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 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national /local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

5.3 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.

In addition to the above, the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.4 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.
- 5.5 The proposed development site is situated within walking and cycling distance from Chesterfield Town Centre and Chatsworth Road District Centre, is on a bus route, however it is located on land that has only been partly previously developed. The site is located within a built-up area where new housing development would be considered appropriate in principle. As such, this proposed development site is considered to be sufficiently sustainable for a development of this nature.

Design and Appearance (Including Neighbour Effect)

- 5.6 Although detailed design is not considered at this stage, the indicative plans indicate a scheme showing the property would measure approximately 10.5M in height, 15.5M in width and between 8.5M and 12.5M in depth. It is suggested that bin storage, cycle storage and parking provision would be to the front of the building, to the East of the site, with provision for six spaces. Approximately 96 Square Metres of rear outdoor amenity space would be situated to the West of the site, and the internal dimensions and layout appear to be appropriate and fit for purpose. It is considered that various alterations would be required with regards to design, appearance and layout, however it is acknowledged that these matters are not being determined at this stage. At present, bin storage is proposed to the front of the property, and the design requires modification, however it is considered that a development set over two storeys with rooms in the roof would be an appropriate way of achieving the level of development that is sought on this site.
- 5.7 The plans indicate that the development would be situated approximately 6M away from the nearest neighbouring property at its closest point. The indicative plans suggest that a development could be accommodated with an adequate level of separation from neighbouring properties to prevent

any adverse issues in terms of overlooking, overshadowing or an overbearing impact. Overall it is considered that the proposed development would be situated in a sustainable and appropriate location, and that there is scope to provide six 2 bedroom flats on the plot without any adverse impact on the site or the surrounding area. It is considered that a scheme can be devised with adequate parking provision and outdoor amenity space, where the internal dimensions and layout are appropriate and fit for purpose, and where there would be no adverse impact on neighbouring properties or the surrounding area.

- 5.8 Overall it is accepted that a development of this nature would impose an impact upon boundary sharing neighbours. In this instance there is however a case to argue that this impact will be minimal due to the level of separation, and the relationship between properties. On balance, it is considered that the impact of the development on neighbouring properties is capable of being sufficiently mitigated such that a refusal of planning permission could not be warranted. 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 a scheme can be devised that would not impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies.

Strategy Planning Team

- 5.9 The Strategy Planning Team have commented that it would be helpful if the applicant could confirm whether the outside amenity and storage area is as permitted (248sqm). The submitted drawings indicate an area for 'bins or cycles' and this shared use would not be acceptable. The cycle parking must be secure and retained for that purpose. Regardless of any consideration of the detailed aspects of the proposal, their comments on this revised application remain the same as the original application for 4 units. They are not convinced that the proposal fully accords with the criteria in CS18, particularly regarding scale and height (criteria b) as the proposal could potentially result in overdevelopment of the site. The ability of the applicant to afford the necessary costs is not a reason to allow an otherwise unacceptable design.

All details of the CIL exceptions policy are on the council website and the applicant should be referred to these.

- 5.10 In response to these comments from the Strategy Planning Team, it is acknowledged that a series of amendments would be required in relation to the design and layout of the indicative development as shown. Nevertheless, it is considered that it would be possible to devise a scheme of an acceptable design, making use of rooms in the roof and which would not be at odds with the general character of the local area. A previous approval on this site initially suggested the provision of a three storey building, which was considered to be unacceptable in terms of scale and massing. It is not considered that a two storey building with rooms in the roof would result in the same level of impact, and this would be explored in depth at the reserved matters stage.

Environmental Services

- 5.11 Environmental Services was consulted on this application and they have raised no objections. It was stated that the hours of construction should be limited to between 8:00am and 5:30pm Monday to Friday and between 9:00am and 4:00pm on a Saturday with no construction on a Sunday or Public Holiday. It was stated that the site is within an area of Chesterfield where there might be land contamination and they recommended that a desk study and if necessary, a site investigation is carried out. All reports should be submitted in writing to Chesterfield Borough Council for approval prior to commencement of development. It is considered that these conditions are necessary in the interests of the amenity of neighbours and contamination. A condition is also necessary requiring the installation of electric vehicle charging points, in the interests of reducing emissions.

Design Services

- 5.12 Design Services was consulted on the application and they raised no objections. It was stated that the site is shown to be located just outside the perimeter of Flood Zone 2 on the Environment Agency flood maps, indicating that the risk to this site would be greater than 1 in 1000 years. The floor

level should be raised above the existing ground level to protect against excess flood waters. The drainage for the proposed development should be provided with separate foul and surface water systems. It is noted that from the application form that it is proposed to connect to the main sewer system. This will require approval from Yorkshire Water. The site is currently wholly tarmac and assumed to be 100% impermeable. The provision of soft landscaping within the development may therefore result in a reduction of drainage runoff. In response to these comments from Design Services, it is considered necessary to impose a condition requiring the submission of drainage details in the interests of sustainable drainage and the prevention of flooding.

Environment Agency

- 5.13 The Environment Agency was consulted on this application and raised no objections.

Yorkshire Water

- 5.14 Yorkshire Water was consulted on this application and made no comments.

Lead Local Flood Authority

- 5.15 The Lead Local Flood Authority was consulted on this application and raised no objections.

DCC Highways

- 5.16 DCC Highways has raised no objections. It was stated that although an indicative layout has been provided, as an outline application with all matters reserved no specific comments are given on this. The principle of some form of residential development is, however, considered acceptable. There are, therefore, no objections to the proposal and it is recommended that the following conditions are included in any consent.
1. Prior to any other works commencing, the entire site frontage to Chester Street shall be cleared, and maintained thereafter clear, of any obstruction exceeding 1m in

height (600mm for vegetation) relative to the road level for a distance of 2 metres into the site from the highway boundary in order to maximise the visibility available to drivers emerging onto the highway.

2. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking 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. There shall be no gates or other barriers located across the entire frontage of the property.

4. The proposed accesses/driveways to Chester Street shall be no steeper than 1 in 14 over their entire length.

In addition, the following notes shall be included for the benefit of the applicant.

5 No notes are also recommended as part of the recommendation

5.17 In response to these comments from DCC Highways, it is considered necessary to impose the suggested conditions and informatives in the interests of highway safety.

The Coal Authority

5.18 The Coal Authority was consulted on this application and they raised no objections. It was stated that the Coal Authority considers that coal mining legacy 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. In the event that the site investigations confirm the need for remedial works to treat the mine entry and areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

- 5.19 The Coal Authority stated that a condition should require prior to the submission of the reserved matters:
- The submission of a scheme of intrusive site investigations for the mine entry for approval;
The submission of a scheme of intrusive site investigations for the shallow coal workings for approval;
 - The undertaking of both of those schemes of intrusive site investigations;
 - As part of the reserved matters application the submission of a report of findings arising from both of the intrusive site investigations;
 - As part of the reserved matters application the submission of a layout plan which identifies appropriate zones of influence for the mine entry, and the definition of suitable 'no-build' zones;
 - As part of the reserved matters application the submission of a scheme of treatment for the mine entry on site for approval;
 - As part of the reserved matters application the submission of a scheme of remedial works for the shallow coal workings for approval; and
 - A condition should also require prior to the commencement of development:
 - Implementation of those remedial works.

5.20 In response to these comments from The Coal Authority, it is considered that the suggested conditions are required in the interests of coal mining legacy and safety.

6.0 **REPRESENTATIONS**

6.1 As a result of neighbour notification, one letter of representation was received from the owner of 49-53 Chatsworth Road.

6.2 The letter of representation raises concerns with regards to proximity to the common boundary.

In response to this comment, it is not considered inappropriate for a new development to abut a common boundary. There are no neighbouring properties located

in close proximity, and it is not considered that the potential location of the proposed development would result in any significant adverse amenity issues.

- 6.3 The letter of representation raises concerns with regards to disturbance to land, potential damage, potential use/blocking of land and access points during construction.

In response to these comments, the Coal Authority has raised no objections to these plans in relation to coal mining legacy. All of the other issues would be civil matters rather than planning considerations.

- 6.4 The letter of representation raises concerns with regards to a lack of parking.

In response to these comments, it is not considered that the provision of six parking spaces for six 2 bedroom flats is inappropriate in this location. The site is located in close proximity to the Town Centre, which is well served by public transport. It is not therefore considered that any further parking provision is required in this instance.

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 site and 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 proposal is considered to be appropriate in principle, would be in keeping with the character of the surrounding area and would not have a significant unacceptable impact on the amenities of neighbouring residents or highway safety. The location of the proposed development site is sufficiently sustainable and is well served by public transport and amenities. 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 and CS10 of the Core Strategy and the wider NPPF in respect of drainage and coal mining legacy. This application would be liable for payment of the Community Infrastructure Levy.

10.0 **RECOMMENDATION**

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

Conditions

1. Approval of the details of the access, scale, layout, external appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. 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.
4. Details of the existing and proposed land levels and the proposed floor levels of the dwellings hereby approved shall be submitted in writing concurrently with any application for the reserved matters being submitted to the Local Planning Authority for consideration. The details submitted shall include sufficient cross sections to fully assess the relationship between the proposed levels and immediately adjacent land/dwellings. The

dwellings shall be constructed at the levels approved under this condition unless otherwise agreed, in writing, by the Local Planning Authority.

5. 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 unless otherwise agreed by the Local Planning Authority in writing.
6. Demolition, remediation or construction work to implement the permission hereby granted 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. Prior to any other works commencing, the entire site frontage to Chester Street shall be cleared, and maintained thereafter clear, of any obstruction exceeding 1m in height (600mm for vegetation) relative to the road level for a distance of 2 metres into the site from the highway boundary in order to maximise the visibility available to drivers emerging onto the highway.
8. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking 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.
9. There shall be no gates or other barriers located across the entire frontage of the property.
10. The proposed accesses/driveways to Chester Street shall be no steeper than 1 in 14 over their entire length.

11. Prior to the submission of the reserved matters, site investigation works shall be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. Details of the site investigation works shall be submitted to and approved in writing by The Local Planning Authority. The details shall include;

- The submission of a scheme of intrusive site investigations for the mine entry for approval;
- The submission of a scheme of intrusive site investigations for the shallow coal workings for approval;
- The undertaking of both of those schemes of intrusive site investigations;
- As part of the reserved matters application the submission of a report of findings arising from both of the intrusive site investigations;
- As part of the reserved matters application the submission of a layout plan which identifies appropriate zones of influence for the mine entry, and the definition of suitable 'no-build' zones;
- As part of the reserved matters application the submission of a scheme of treatment for the mine entry on site for approval;
- As part of the reserved matters application the submission of a scheme of remedial works for the shallow coal workings for approval; and
- Implementation of those remedial works prior to the commencement of development.

12. 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.

13. 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 contamination. Ground gas, ground water and chemical analysis, identified as being appropriate 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.
14. 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.

Reasons for Conditions

1. The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).
2. The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.
3. The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.
4. In the interests of residential amenities.
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 highway safety and parking.
8. In the interests of highway safety and parking.
9. In the interests of highway safety and parking.
10. In the interests of highway safety and parking.
11. In the interests of coal mining legacy and safety
12. In the interests of reducing emissions in line with Core Strategy policy CS20 and CS8
13. To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard
14. To ensure that the development can be properly drained.

Notes

1. Any new drainage for the proposed building and any amendments to the existing building drainage may require Building Control approval. Consultations with Yorkshire Water will be required should the applicant wish to discharge to a public sewer.
2. 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.
3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
4. The Highway Authority recommends that the first 5m of the proposed accesses/driveways should not be surfaced with a loose material (i.e. unbound chippings

or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

5. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
6. Car parking provision should be made on the basis of two spaces per two/three bedroom dwelling or three spaces per four/four plus bedroom dwelling. Each parking bay should measure 2.4m x 5.5m clear of the public highway.
7. The applicant should be aware that there is traffic calming on the site frontage and works required in relation to this will be at the applicant's expense.