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File No: CHE/17/00800/FUL  
Plot No: 2/3991

## **ITEM 7**

### **RETENTION OF EXTERNAL WORKS AND CONVERSION OF FIRST AND SECOND FLOOR TO THREE SELF CONTAINED RESIDENTIAL UNITS AT 2 YORK STREET, HASLAND, CHESTERFIELD, DERBYSHIRE, S41 0PN FOR MR NIGEL CHADWICK.**

Local Plan: Unallocated  
Ward: Hasland

#### **1.0 CONSULTATIONS**

|                        |  |
|------------------------|--|
| DCC Highways           | Comments received – No objections – see report               |
| Ward Members           | no representations received                                  |
| Neighbours/Site Notice | 7 letters of objection and 3 letters of support - see report |

#### **2.0 THE SITE**

- 2.1 The application site relates to the premises of 2 York Street at Hasland which is situated at the junction of York Street with Hampton Street. It is a late c19 / early c20 two storey building built as a corner shop with self-contained living accommodation above which was accessed from the rear.
- 2.2 The building is of a traditional 2 storey design with stone dressings beneath a slate roof as a continuity of the character of buildings in the immediate vicinity. The shop unit s fronting the corner junction is now occupied by a beauty type use but was previously occupied by a safe cracker and Hasland Carpets before that.
- 2.3 The shop unit forecourt area contains two vending machines which are the subject of a current Enforcement Notice and appeal process.
- 2.4 The premises has a side extension and double garage which have been erected recently and which have previously been considered

and accepted by planning committee (see history below). Further changes to the roof and upper storey were also the subject of a report to planning committee and which is also referred to below. The upper floor of the premises has been a residential unit for many years.



- 2.5 The site is within an area which is generally of residential terraced housing and where the public highway is generally used for parking purposes due to the absence of off street parking opportunities. The pavements in the vicinity of the site are generally narrow reflecting the tight knit turn of the century suburb area.
- 2.6 With reference to the Policies Map of the adopted Local Plan the site is not subject to any land allocation or designation.
- 3.0 **RELEVANT SITE HISTORY**
- 3.1 In 1996 planning permission was granted for use of the shop unit as a takeaway however this was not implemented (CHE/0996/0516).

- 3.2 In 1998 a further application was made to convert the vacant shop into a flat and which was approved however the consent lapsed and the conversion was not implemented (CHE/0198/0036).
- 3.3 In 2000 the basement of the premises was the subject of an application to convert to a flat which was again approved but never implemented (CHE0500/0313).
- 3.4 The shop unit was subsequently used by Hasland Carpets under a previous ownership and up to the current owners possession (Mr N Chadwick). The shop was then occupied by a professional safe cracker (Technique Safes Ltd) and now by "*Be You Tiful Boutique*".
- 3.5 Planning Committee considered a report at its meeting on 17<sup>th</sup> July 2017 and which considered the planning merits of an unauthorised side extension, a double garage and the introduction of two vending machines on the property forecourt. Whilst it was agreed that it was not expedient to take any action regarding the side extension and garage it was resolved to secure removal of the vending machines via formal enforcement action. An Enforcement Notice was served on 1<sup>st</sup> August 2017 requiring the two vending machines to be removed however the property owner lodged an appeal which is currently awaiting a decision.
- 3.6 Planning Committee considered a further report at its meeting on 9<sup>th</sup> October 2017 and which considered the works being undertaken in connection with conversion and extension of the roof space to provide an independent self-contained residential unit. Authority was granted for the issue of an Enforcement Notice requiring the removal of the unauthorised extension of the roof and external works.

#### 4.0 **THE PROPOSAL**

- 4.1 The application is submitted partly in retrospect and proposes the retention of alterations to the roof of the building to create an additional three lettable self contained units over the existing first and proposed second floor of the premises. The first floor would provide two single bed units with a further single bed unit at second floor.
- 4.2 The proposed accommodation relies on existing windows and doors at ground and first floor level. All alterations are to the

interior of the property and access to all the flats is to be internal via a new staircase. The second floor flat relies on the additional space created by extending the roof from a hipped design to a gable. The applicant indicates that the balcony and canopy can be removed if required.

## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy**

5.1.1 The site is situated within the built settlement of Hasland in an area which is mainly residential in nature. It is however very close to the Hasland District Centre which is just a couple of minutes walk away. Having regard to the nature of the application policies CS1 (Spatial Strategy), CS2 (Principles for Location of Development), CS3 (Presumption in Favour of Development, CS18 (Design) and CS20 (Influencing the Demand for Travel) of the Core Strategy and chapters 1, 2 and 7 of the wider National Planning Policy Framework (NPPF) apply.

5.1.2 The National Planning Practice Guidance is also of relevance to the case.

#### 5.1.3 **Key Issues**

- Principle of the development;
- Impact on neighbouring residential amenity;
- Design of the proposal; and
- Highways Safety and Parking Provision.

### 5.2 **Principle of Development**

5.2.1 The site is situated close to Hasland District Centre and within easy walking or cycling distance of all the services and facilities on offer. The centre is also well served by public transport, parks and open spaces and schools which are all easily accessible. The site is considered to be sustainable and meets the locational and concentration requirements referred to under policy CS1, CS2 and CS3.

5.2.2 Conversion of the upper floor of a mixed use premises to incorporate residential flats is considered to be entirely appropriate in terms of the principle of the development. 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. There are no policy objections in principle to the conversion of the upper floors of the property to residential units subject to the detailed assessment of other material considerations in accordance with remaining policies CS2, CS18 and CS20 of the Core Strategy which are dealt with below.

### 5.3 **Design / Appearance**

- 5.3.1 Core Strategy Policy CS2 states that *'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.'* Policy CS18 states that *'all development should identify, respond to and integrate with the character of the site and its surroundings and respect the local distinctiveness of its context'* and development should have *'an acceptable impact on the amenity of users and 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.'*

- 5.3.2 The only external component of the scheme is the rear/side facing roof extension with balcony and canopy which are visible from York Street and surrounding gardens to property on York Street, Hampton Street and Kent Street. It is clear that the works undertaken to date require planning permission however works on site were suspended when concerns were expressed and the applicant changed the original intention to construct an external spiral stair to the top floor flat.
- 5.3.3 At planning committee in October 2017 it was argued that the extension of the property appeared as a dominant out of place addition and which compromised the street scene and that this would be exaggerated by the spiral stair which would appear as a dominant and incongruous addition to the building. Reference was

made to the considerable overlooking opportunities from the platform, staircase and the windows which will be unneighbourly for the local neighbours but especially for those at 8 York Street to the west and 14 Hampton Street to the north. It was on this basis that an Enforcement Notice was recommended and agreed however submission of the current planning application has held that action pending its outcome.



- 5.3.4 The roof extension on its own would not be so incongruous that a refusal could be justified in planning terms. The change from what was originally a hipped design to a gable design reflects the design of neighbouring properties and actually respects the local character. If the balcony and canopy were to be removed and the french doors were to be changed to an obscured window then the extension of the building would not be so damaging to the street scene to the point that planning permission should be refused. Such changes referred to above could be required by condition of any planning permission granted and which would result in an external appearance which would not be concluded as being in conflict with policies CS2 and CS18 of the Core Strategy and the advice contained within the National Planning Policy Framework.

#### 5.4 **Neighbouring Amenity (excluding highways impact)**

- 5.4.1 Core Strategy Policy CS2 states that when assessing planning applications for new development, proposals 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.
- 5.4.2 Core Strategy Policy CS18 also states that, 'Development will be expected to, inter alia, have an acceptable impact on the amenity of users and neighbours'.
- 5.4.3 There is clearly no impact arising from the roof extension to the side/rear of the premises on the neighbouring properties which face the front of the premises on Hampton Street (evens). The main properties affected are those at the eastern end of York Street (odd and even) and the even numbered properties to the north of the site on Hampton Street.

#### York Street

- 5.4.4 Property at the eastern end of York Street can see the external changes however if the balcony and canopy were to be removed and the French door changed to an obscured window then the visual impacts would not be significant in the context.
- 5.4.5 As well as resolving an appearance issue as referred to above, this would also remove any significant opportunity to overlook the immediate neighbours. The outlook from the existing french doors is primarily either over York Street or towards the rear gardens of properties on the even side of York Street. The photographs below show other property on York Street with second floor windows overlooking the street and property opposite. They also show that the nearest property at 4 York Street has no habitable rooms in its side gable and therefore no outlook from within the dwelling towards the application proposal.



#### 5.4.6

It is the case that there will always be an opportunity in a tight knit residential area for potential overlooking of neighbouring properties and gardens, especially from the upper floor windows. This is generally accepted and is common place. In this case it is



considered that this can be generally removed by the conditions suggested above changing the French doors to an obscured window.

5.4.7 There will be no overshadowing impact on any neighbours due to the extension being at roof level. It is considered that any impacts upon boundary sharing neighbours on York Street will be minimal due to the relationship between the properties and the orientation of the site.

5.4.8 On balance, it is considered that subject to the conditions suggested above, the impact of the development on these neighbouring properties is not sufficiently harmful such that a refusal of planning permission is warranted. It is not considered that this development would cause any major issues in terms of overshadowing, overlooking or an overbearing impact and 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 proposals are acceptable.

#### Hampton Street

5.4.9 The only impact arising from the extension of the property on Hampton Street relates to possible overshadowing, overlooking and overbearing presence as perceived by the nearest neighbour at No. 14 Hampton Street.



- 5.4.10 The photograph above shows the windows in the side of the roof extension however there is no real opportunity to look into any windows or gardens of any neighbouring property. The outlook is over the roof of the neighbouring properties. The resident of 14 Hampton Street support the applicant in his proposals.
- 5.4.11 It is the case that there will always be an opportunity in a tight knit residential area for overlooking of neighbouring properties and gardens, especially from the upper floor windows. This is generally accepted and is common place however in this case the it is considered that the development will have little impact upon the neighbours on Hampton Street and the development is not sufficiently harmful such that a refusal of planning permission is warranted. It is not considered that this development would cause any major issues in terms of overlooking, overshadowing or an overbearing impact and 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 proposals are acceptable.
- 5.4.12 In summary the development has limited adverse impacts on the surrounding residential neighbours and a refusal based on such impacts cannot be justified in planning terms. The development is sufficiently in accord with the requirements of policy CS2 and CS18.

## 5.5 **Highways Issues**

- 5.5.1 Policy CS20 seeks to influence the demand for travel and seeks to locate development in areas where more sustainable travel choices can be made. Policy CS18 expects developments to provide adequate and safe vehicle access and parking facilities.
- 5.5.2 The premises is currently authorised as a shop with 2 bed flat above but which relies on the street for parking as do the majority of properties in the vicinity. The applicant has however constructed a detached double garage which provides limited off street parking provision.
- 5.5.3 It is accepted that the area in general is heavily parked due to the terraced nature of properties and the absence of any meaningful off street parking provision. This situation has existed for many years and is unlikely to improve.

- 5.5.4 Derbyshire County Council Highways has been consulted on this application and they have commented that the garage is not set back 6.1 metres to allow doors to be opened clear of the highway and that the use of the eastern most garage is hindered by a telegraph pole. They recommend that the telegraph pole should be relocated and the garages should be either removed to create parking spaces or the doors removed to create car port parking. The Highway Authority also makes reference to the intensification of parking arising from the increase in flats at the site. They say York Street and surrounding streets already suffer from high demand for on street parking however on the basis of the small scale of the proposal the Highway Authority considers an objection on this basis would be unsustainable accepting that the proposal may have some adverse effect on the highway parking situation.
- 5.5.5 The Highway Authority recommends the imposition of 3 conditions as follows:
- No occupation until the telegraph pole is relocated;
  - No occupation until space provided to park 2 vehicles on site;
  - Provision of barriers to site frontage and any doors adjacent to the highway to open inwards only.
- 5.5.4 The application does not relate to the garage which has previously been accepted on the site. Notwithstanding this the garages are capable of being used and provide off street parking opportunity which can be taken into account as part of the application. The Highway Authority accepts that it is not uncommon for parking in such urban areas to be at a premium and users and occupants of the area have to rely on the street for parking. It is accepted that the change from a single flat to 3 flats increases parking demand from potentially 1 space to 3 and which therefore puts additional pressure on parking capacity in the local area however it is considered this will have an insignificant impact overall and a refusal could not be justified on these grounds.
- 5.5.5 Objectors have referred to the problem of parking in the area. They refer to the situation being a nightmare. It is accepted that this is common place within an area of late c19 / earlyc20 terraced housing with narrow streets and pavements and no off street parking opportunities for the majority of houses fronting the street.

5.5.6 The NPPF requires any highway safety harm to be 'severe' before permission is refused on these grounds, accepting that this generally relates to more substantial schemes. It is considered that the proposal for 2 additional flats is unlikely to contribute so much to the acknowledged existing problems in the area that the specific impact could be regarded as a 'severe' harm to the safe operation of the highway network in this instance.

5.5.8 On balance the likely minor impact arising as a result of the proposal, it is considered that the presumption in favour of supporting sustainable development should prevail and that planning permission should be given.

5.5.9 On the basis of the above, the proposal generally accords with the requirements of Policy CS18 criteria (g) of the Local Plan: Core Strategy.

## 6.0 **REPRESENTATIONS**

6.1 The proposal was publicised by site notice on 30<sup>th</sup> November 2017 and neighbour letters on 20<sup>th</sup> November 2017. The statutory period of publicity has expired and resulted in 7 letters of objection and 3 in support.

### 6.2 **Objectors**

#### 6.2.1 **3 York Street:**

Would be nice to see something done for repairs as its awful. I have never seen anything done since 1962 and the flats are dirty and damp and not fit to be called flats.

#### 6.2.2 **19 York Street:**

- Invades privacy of property on York Street and Kent Street and is a safety issue as the tenants gain access via a ladder secured by a rope.
- Parking problems made worse by Mr Chadwick leaving vans and trailers parked and not moved for days then only to be replaced by Mr Chadwicks other vehicles.
- The ground floor has been opened as a shop doing beauty treatments but also selling food and drink. What about health and hygiene.

#### 6.2.3 **21 York Street:**

- Invasion of privacy from balcony to property on York Street and all first floor windows on odd numbered side of street. It also overlooks gardens on the even numbered side.
- Aesthetically the extension is an eyesore detracting from potential buyers wanting to move to the area.
- Also concerns regarding future parking issues which will be created by additional tenants. Already insufficient parking in the area and existing residents already struggle to find parking space. The area is always congested throughout the day. The vendor also continuously parks his commercial vehicles at the end of York Street and which has resulted in other residents (some elderly) having to park 400-500 yards away from their property. This is unacceptable.
- The second floor flat has been occupied by a gentleman using the ladder as access. This is dangerous. Construction of a staircase would be impeded by the garages now constructed.
- CCTV has been installed around the property without consultation with local residents with a number of the cameras having viewing capabilities into neighbouring road facing windows.
- Works carried out to the dropped kerb are substandard leaving the pavement and kerb a health and safety hazard.
- The vendor has been physically and verbally aggressive towards local residents when challenged about the works.

#### 6.2.4 11 Hampton Street x 2

Works already carried out in breach of regulations. Concerns regarding health and safety issues. The separate units were sharing heating and electric supply with one electric meter for the whole building. Ignoring Health and Safety appears to be a common occurrence for Mr Chadwick. There is already a separate case subject to appeal regarding the vending machines. He has also built 6 self-contained units to the rear of Hasland Hotel and it is considered that a full review of Mr Chadwicks activities should be undertaken before further breaches occur.

#### 6.2.5 17 Hampton Street

Concern regarding access which appears unsafe. Also concerns regarding future parking issues which will be created by additional tenants. Already insufficient parking in the area.

6.2.6 19 Hampton Street  
Concern regarding the external works. The balcony is too high, extremely dangerous as access is by a ladder tied on with rope. The vendor doesn't seem to adhere to any health and safety standards. Also concerns regarding future parking issues which will be created by additional tenants. Already insufficient parking in the area and existing residents already struggle to find parking space. The area is always congested throughout the day.

### 6.3 Supporters

6.3.1 249 Prospect Road  
Its good that more low cost accommodation is available in Hasland area. The building was in a poor state of repair but now the owner has done a real fab job and now looks great.

6.3.2 54 York Street  
Sister needs a one bed flat and these plans look good.

6.3.3 applicant  
Two comments supporting the proposal have been received from the applicant confirming that externally the building looks updated and improved with the new shop windows and solar pv. Reference is also made to a need for low cost rental accommodation which is safe and clean and well managed.

### Comments

***The majority of comments received in opposition refer to the same issues and which are dealt with through the considerations section of this report. Whereas a number are of relevance a number of representations received refer to matters which are not material to the determination of the submission. (the shop, CCTV, metering of buildings, relationship between applicant and locals for example). The works carried out within the highway to lower kerbs were undertaken by DCC.***

***The parking issues are dealt with at paragraph 5.5 above and accept that there will be an impact however this will not be substantial enough to warrant a refusal of planning permission. Properties have been sold in the area since the works have been undertaken however residents will chose when buying or renting their homes to live in properties with no off road parking.***

***The considerations section of the report responds to the concerns regarding the visual and appearance issues and the impact on neighbours. A number of objectors refer to the access being via the ladder which has now been removed as a result of notice being served on the owner by the Council (Housing). Access to all three flats will be internal within the building by a traditional fire protected staircase.***

7.0 **HUMAN RIGHTS ACT 1998**

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

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

7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application. The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary. The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.

7.3 The interference caused by a refusal, approval or approval with conditions, based solely on planning merits, impairs as little as possible with the qualified rights or freedoms of the applicant, an objector or consideration of the wider Public Interest. The applicant has a right of appeal against a refusal of permission or imposition of conditions.

## 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 The local planning authority offers a free pre-application advice service and, in this instance, the applicant did not engage in any pre-application discussions or enquiries regarding this proposal. The applicant has been informed of the concerns raised during the consideration and has been afforded the opportunity to respond.

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 site is sustainably located and would provide good quality small flats above a shop in an existing residential area and which is generally supported by policies within the Core Strategy. Subject to alteration to the balcony, canopy and French doors the scheme would not be so harmful in design and appearance terms to warrant a refusal of planning permission. The scheme would also have very limited impacts on the nearest neighbours in so far as their amenities are concerned. The main issues concern parking provision which is accepted as being finely balanced however on balance the proposal presents an insignificant overall impact on what is an existing urban area where the street is relied upon for parking and to which the Highway Authority accept could not be sustained as part of a refusal. As such, the proposal accords sufficiently with the requirements of Core Strategy policy and the NPPF and planning permission should be granted.

## 10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be approved subject to the following condition.



1. Within 1 month of the date of this permission details showing removal of the west facing balcony and canopy and any consequential amendments to the building at second floor level shall be submitted to the local planning authority for consideration. The detail agreed in writing by the local planning authority shall be carried out within 6 months of the date of this permission.
2. Within 1 month of the date of this permission details showing removal of the west facing French doors at second floor level and replacement with a shall be submitted to the local planning authority for consideration. The new window shall be obscurely glazed to a minimum of Pilkington level 3. The details agreed in writing by the local planning authority shall be carried out within 6 months of the date of this permission and which shall be retained as such thereafter for the life of the development.

### **Reasons**

1. In the interests of the design and appearance of the building and to avoid a conflict with neighbouring residential amenity.
2. In the interests of residential amenity