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File No: CHE/18/00071/FUL
Plot No 2/86

Planning Committee: 25th June 2018

ITEM 2

Single storey extension to rear elevation and creation of 2 apartments (amended scheme) at 47 and 49 Duke Street, Staveley, Chesterfield

Local Plan: Unallocated
Ward: Middlecroft and Poolsbrook

1.0 **CONSULTATIONS**

DCC Highways	No objection subject to condition.
Design Services	No objections.
The Coal Authority	Material Consideration. No objection subject to conditions.
Environmental Services	No objection subject to restrictions on working hours.
Urban Design Officer	Sought amendments, before application was revised.
Yorkshire Water	No comments received.
Derbyshire Fire Officer	No comments received.
Strategic Planning Team	No objection, but it is CIL liable.
Ward Members	No comments received.
Town Council	No objection.

Neighbours/Site Notice

Two representations received from persons not associated to the application site. 6 additional letters from the applicant, their family and staff of businesses on site.

2.0 **THE SITE**

- 2.1 This application relates to two adjoining buildings (47 and 49 Duke Street) which are positioned on the western side of Duke Street. The rear of the property is within an area that includes the car parking for the Doctors Surgery and other residents/businesses in the area with access gained to the courtyard from Rectory Road.
- 2.2 The application site properties include two businesses fronting the A619 and which comprise of In2Frames and Ace Sports at ground floor, with the 1st and 2nd floors of no.49 Duke Street (Ace Sports) currently associated to the business. The 1st and 2nd floors of no.47 have previously been converted into a residential unit via permitted development rights.
- 2.3 A single storey extension and balcony area were previously given permission and constructed on site and which resulted in some of the ancillary space for the business at no.47 being moved into the rear extension to facilitate the re-use of the upper floors for residential use. The extension was not built entirely as per the agreed plans as the balcony area is surrounded by a brick wall instead of obscure glazing/rails.
- 2.4 The original red line has changed. It originally included car parking spaces associated with the businesses and potentially the apartment on site however a revised red line excludes these parking spaces notwithstanding the fact that the applicant is considered to own this land.
- 2.5 The existing buildings are two storey in height and terraced in design, with pitched slate roofs and red brick. There are velux windows in the roof of no.47.

3.0 **RELEVANT SITE HISTORY**

- CHE/15/00561/FUL - Extension to rear of shop unit at 47 Duke Street – Conditional permission – 06/11/15.

4.0 **THE PROPOSAL**

- 4.1 The proposal seeks permission for a single storey rear extension to the rear of No 49 for a machine room and re-configuration of the two buildings to include 2 additional residential units within the 1st and 2nd floors of no.49 Duke Street. The scheme would also require the removal of large amounts of earth to ensure it aligns with the ground level of the neighbouring extension.
- 4.2 The rear extension would match the existing projection of the rear extension at no.47, which is 8.5m and would enlarge the overall width of the rear extension from 7m to 14.4m, which is 7.4m. It is proposed to have a brick parapet balcony wall that would surround the whole of the proposed roof space. The ancillary business space that is currently sited in the upper floors of no.49 would be sited within the proposed rear extension.
- 4.3 The proposal would lead to the loss of a door in the northern side of the existing rear extension and the change of the patio window into a door. Access to the existing extension will be achieved via a small corridor that will be introduced in-between the proposed and existing extensions.
- 4.4 It is proposed to include 4 parking spaces to the rear of the new extension.
- 4.5 The proposal has been amended on several occasions; this has included a change in the red line boundary, the change of the proposal from 3 to 2 units, a loss of the 1st floor element of the proposal and then the addition of 4 parking spaces onto the site, velux windows into the roof and additional living quarters into the 2nd floor of the roof space of no.49.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The site is situated on a main road location on the edge of central Staveley. This area is mixed commercial and residential in nature. 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 Council's Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.1.2 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.

5.1.3 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.'

- 5.1.4 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.
- 5.1.5 A review of the application against the relevant policies and the planning history the principle of the proposal is considered to be acceptable. The site is within a residential/business area and a development in this location would support the council's spatial strategy of 'concentration and regeneration'. The site is sustainably located close to and well served by a range of services and facilities and methods of transport and is in line with the requirements of policies CS1 and CS2.
- 5.2 **Design and Visual Amenity**
- 5.2.1 In accordance with Core Strategy Policy CS18 all new development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. In doing so developments are expected to respect the character, form and setting of the site and surrounding area; having regard to its function, appearance, scale and massing.
- 5.2.2 The Council's Urban Design officer requested several changes to the proposal including the removal of one of the units and a change to the internal layout of flat 1 to include a window into the bedroom. The proposal was changed in line with his comments.

- 5.2.3 The proposal is a single storey rear extension and a re-configuration of the internal layout of the buildings. The extension has no visual implications as perceived from Duke Street. Within the rear area of the site the proposal would introduce a larger rear extension than the one currently presented. This is designed to match the style and materials of the existing extension and in design terms the proposal is considered to be generally in-keeping with the surrounding area.
- 5.2.4 In terms of design the internal layout of the proposal has been altered in many ways, but this has led to the inclusion of a bedroom within the 2nd floor and re-configuration of the 1st floor of unit 1. Unit 2 is considered to be a large one bedroom flat and of sufficient size to be acceptable.
- 5.2.5 Overall the proposed development is considered to be appropriately sited, scaled and designed to respond to the provisions of policies CS2 and CS18 of the Core Strategy and the wider SPD.

5.3 **Residential Amenity**

- 5.3.1 Core Strategy Policies CS2 and CS18 comment that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 5.3.2 In terms of amenity space the proposal will have a shared space within the roof balcony area for the existing flat above No 47 and the proposed flats above No 49, with over 100 square metres split between the 3 units.
- 5.3.3 In terms of overshadowing the proposal is acceptable, as it will not lead to any overshadowing to surrounding neighbours. In reference to overlooking the proposal does not lead to an increase of overlooking into the windows of neighbouring dwellings.

5.3.4 In terms of the increase in noise, the increase from 1 to 3 flats this has the potential to lead to increased levels of noise to surrounding residents in comparison to the existing situation. If no.47 and 49 were still residential units and had two rear gardens/yards, such as other surrounding houses, then the residents of these houses could make a certain level of noise. In an objection letter from a neighbouring resident a question is asked regarding the type of people who may live in the units. Clearly the planning process cannot control who may or may not live in the apartments. The owner of the overall site has a business and currently lives on site and would in this respect act as an on site manager. It is accepted that the situation may change in the future, but the Council cannot refuse a planning application because of potential inconsiderate and noisy residents may live in the units in the future.

5.3.5 Neighbouring residents have been consulted and an objection was received concerning the impact on their amenities. The issues raised were taken into account but it was not considered that the proposal would lead to a significant impact upon residential amenity of local residents. It is considered that the proposal is acceptable in terms of impact on residential amenity and is in line with policies CS2 and CS18, as well as the NPPF.

5.4 **Highways Issues**

5.4.1 The Highways Authority has not objected to the proposal. The proposal has 4 new parking spaces for the 2 new flats and this is considered acceptable especially in such a sustainable location. The spaces are accessed via the gateway adjoining the Doctors Surgery on Porter Street. It is considered that a condition is necessary to require better detail to show how the 4 spaces would be accessed.

5.4.2 Having regard to policies CS2 and CS18 of the Local Plan in respect of highway safety it is considered that the development proposals do not pose an adverse risk to highway safety, subject to condition and is therefore acceptable.

5.5 **Flood Risk/Drainage**

- 5.5.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site is not at risk of flooding. The applicant has to ensure that the proposal is compliant with building regulations and communicate with Yorkshire Water to connect to the local sewerage system, if connection is required.

5.6 **Land Condition/Contamination**

- 5.6.1 The site the subject of the application is partially developed land and therefore land condition needs to be considered having regard to policy CS8 of the Core Strategy.
- 5.6.2 In respect of potential Coal Mining Risk, the site lies within the High Risk Area. The Coal Authority was consulted on the application and agreed with the Coal Mining Report and Risk Assessment that site investigation works should be undertaken prior to development. This can be dealt with by condition.

6.0 **REPRESENTATIONS**

- 6.1 As a result of neighbour notification, eight letters of representation have been received with 6 of these comments from the applicant, their family or persons related to businesses on site. 2 other letters have been received, 1 of which supports the proposal whilst the other objects to it. The comments made are as follows.
- 6.2 The resident of 45 Duke Street has objected on the grounds of insufficient parking spaces for the proposal, adequate drainage capacity for the new units and the potential for the noise from the building works and from future residents of the dwellings. They have also asked whether the units are bedsits, if the fire brigade could gain access to the rear of the site and who will vet the future residents.
- 6.3 A resident of no.8 Church Street, Staveley supports the scheme due to the public benefits to the local economy.

- 6.4 A resident of 55 Edale Road, Mastin Moor supports the scheme, as the proposal is the same as the existing rear extension and it would enable him to move into one of the flats.
- 6.5 The residents (and applicant for this development) of the flat above 47a Duke Street (including both adults and their 2 children) support the scheme with 3 separate letters.
- 6.6 ***In response to the comments made, only material planning issues can be considered as part of the consideration of the proposal. Issues such as who will live in the units and how much noise they may make are not planning related. Building hours can be restricted in relation to noise during construction. In relation to access for the fire brigade, there is a gate adjoining the doctors surgery, which enables access for existing residents and workers for the site and this access will also be used as part of this proposal.***

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.

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 and 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 been sufficiently proactive and positive in proportion to the nature and scale of the development applied for, and requested changes to make the scheme acceptable.

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 **CIL LIABILITY**

9.1 Having regards to the nature of the application proposals the development comprises the creation of new residential accommodation and additional retail space; the development is therefore CIL Liable. The agent has been asked to submit a CIL liability form, but have not do so to date. The floorspace measurements have been calculated by the planning officer.

9.2 The site is within the low CIL zone for residential use, and therefore the CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

Plot	New GIF sqm	Calculation	Total
Retail Unit	53.2	54 x £80	£4,320
Residential Unit 1	63.4	63 x £20	£1,260
Residential Unit 2	108.2	108 x £20	£2,160
Total			£7,740

10.0 **CONCLUSION**

10.1 The proposals are considered to be appropriately designed such that they are considered generally in keeping with the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. The location of the proposed development site is appropriate, is well served by public transport, and is in close proximity to 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.

10.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8 and CS18 of the Core Strategy and the wider NPPF in respect of Highways, the Coal Authority, drainage, and ecology.

11.0 **RECOMMENDATION**

11.1 That a CIL Liability Notice be served in line with the details at paragraph 9.0 above.

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

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.

02. All external dimensions and elevational treatments shall be as shown on the approved plans:
- Proposed 2nd Floor (received 01/05/18),
 - Proposed 1st Floor (received 01/05/18),
 - Proposed Rear Elevation (received 01/05/18),
 - Site Plan (received 03/04/18),
 - Existing Side Elevation,
 - Existing Rear Elevation,
 - Existing 2nd Floor,
 - Existing 1st Floor,
 - Existing Ground Floor,
 - Site Location Plan:

with the exception of any approved non material amendment.

Reason - 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.

03. A revised plan showing the parking area and safe manoeuvring area within the context of all land owned by the applicant within the rear parking area shall be submitted to the Local Planning authority for consideration. The details subsequently agreed in writing by the local planning authority in consultation with the Highways Authority shall be implemented in full on site and be available for use prior to first occupation of either residential unit. The parking and manoeuvring space shall thereafter be maintained free from any impediment to their designated use for the life of the development.

Reason – In the interests of highway safety.

04. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason – in the interests of highway safety.

05. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods, vehicles, parking and manoeuvring of employees and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designed use throughout the construction period.

Reason – in the interests of highway safety

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

Reason – in the interests of highway safety

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

Reason - In the interests of residential amenities.

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

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

09. No development approved by this permission shall be commenced until permeability tests are carried out with sizing calculations provided, in accordance with BRE Digest 365, and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding.

Notes.

01. 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.

02. 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.

03. 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.