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Committee Date: 6th August 2018

File No: CHE/18/00200/MA
Plot No 2/4296

ITEM 2

MATERIAL AMENDMENTS TO PLOT 1 (RE-SITING OF BUNGALOW AND BUNGALOW TO BE SINGLE STOREY) OF PREVIOUSLY APPROVED APPLICATION CHE/07/00117/FUL AT FOX'S PLACE, BRAMPTON, CHESTERFIELD FOR MR P BISSETT.

Local Plan: Unallocated
Ward: Holmebrook

1.0 CONSULTATIONS

DCC Highways	No objection
Design Services	No objection
Ward Members	No comments received
Neighbours/Site Notice	Five representations received

2.0 THE SITE

- 2.1 This site was previously vacant 'backland' between the rear gardens of dwellings on Old Road and Chatsworth Road and which historically was used as a parking area. A previous application was approved for 2 dwellings on site including access onto Old Road.
- 2.2 The western most approved dwelling has been built on site however the land to the east remains overgrown.
- 2.3 There is an existing brick built building to the north east of the site. Brick walls define all boundaries and which vary in height from 1.5m to 2.5m. The applicant has also begun to construct a timber framed outhouse adjoining the northern boundary.

3.0

RELEVANT SITE HISTORY

- Two cottages were previously located on site.
- CHE/0887/0498 – Construction of two bungalows – Refused – 15/10/87
- CHE/0890/0687 – Construction of two dwellings – Refused – 1990
- CHE/0399/0108 – Outline planning permission for a single dwelling – Conditional Permission – 29/04/99
- CHE/06/00542/FUL – Two units (3 dwellings) – Refused – 10/08/06
- CHE/06/00687/FUL - Closure of footpath through land by erection of wall 2 metres high – Conditional Permission – 10/10/06
- CHE/07/00117/FUL - 2 detached dormer bungalows - resubmission of CHE/06/00542/FUL – Conditional Permission – 02/04/07
- CHE/09/00637/NMA - Non-material amendment to previous approved scheme CHE/07/00117/FUL comprising a change to dormer window roofs to pitched and addition of a gable type roof over bay to front elevation – Unconditional Permission – 27/10/09

4.0

THE PROPOSAL

- 4.1 The proposal seeks a material amendment to a previously approved scheme. That was for two 3 bedroom dormer bungalows on the site.
- 4.2 This application seeks to amend the scheme to replace the eastern most of the previously approved dwelling with a 2 bedroom bungalow, to change its siting, re-configure the internal boundaries of the site, move parking spaces and to build an outhouse on the site.
- 4.3 The dwelling would be 11m wide and 8m deep. It would have projecting gable to the front and it would use matching red bricks and concrete tiles to the existing dwelling.
- 4.4 The outbuilding would be 7.1m wide and 3m deep, with a height of 2.34m. This would be constructed out of wood and would be used for storage and as a summerhouse.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The site is situated within the Holmebrook ward of Chesterfield. This area is predominantly 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 After reviewing the application against the relevant policies and previous applications the principle of the proposal is considered to be acceptable. It is within a residential area and a development in this location would support the council's spatial strategy of 'concentration and regeneration' by re using a brownfield site in a location well served by a range of facilities and methods of transport, this ensures the proposal is in line with CS1 and CS2. Furthermore the fact that the 2007 planning permission has been implemented is a significant fall back position which carries weight as part of the consideration of the changed scheme.

5.2 **Design, Visual and Residential Amenity**

- 5.2.1 A two bed dormer bungalow, as built next door, was previously approved on site. The dwelling now proposed has been reduced to one storey and its siting has been changed.
- 5.2.2 Scale - The reduction of the proposed dwelling from a dormer bungalow to a bungalow has reduced the overall height by 1.0 metre from 5.9 metres to 4.9 metres. The eaves height remains the same. This has the effect of lessening potential overlooking issues with neighbours. It will mean that the two dwellings do not match, but this is not considered to be a significant issue.

- 5.2.3 Siting – The dwelling has been rotated to face more towards the access point and moved closer to the southern boundary. This achieves a larger rear garden area. The original drawings showed the dwelling so that it was at a similar angle and distance from the boundary to the other dwelling. During the application process this was changed to its current siting to ensure it impacted less on surrounding residents.
- 5.2.4 Overlooking – The siting of the bungalow has been carefully considered to ensure that it doesn't lead to a significant amount of overlooking with surrounding neighbours. During the previous application plot 1 was sited at an angle away from facing directly towards the rear of the dwellings on Chatsworth Road. This proposal originally seemed to change this, so it would have been facing almost directly towards the rear of several houses. After discussions with the applicant and agent this was changed to reduce any potential impact. There is a boundary wall on site, which will lessen any overlooking, but the rear 1st floor rooms of the neighbouring houses will still be able to overlook into habitable rooms in this dwelling, including the dining room/kitchen and 2nd bedroom; due to the proposed angle however this is not considered to be a significant planning issue.
- 5.2.5 Overshadowing – The reduction in height of the plot 1 has ensured that the proposal does not lead to increased overshadowing to surrounding dwellings. Due to the layout of the two dwellings on this site the proposal will not lead to increased overshadowing to one another.
- 5.2.6 Proposed Outbuildings – As part of the proposal the applicant submitted additional drawings that including an outbuilding on the northern border. This would be sited very close to the northern border of the dwellings on Old Road. The outbuilding is partially built so it is possible to view how this will look and to consider what impact it may have upon the residents of these houses in the future. There were several objections in relation to this building, the residents were concerned about several issues including fire risk, noise from socialising, the blocking of residents to maintain their boundary walls and overshadowing into rear gardens and outbuilding.

As stated elsewhere, only planning-related issues can be considered and the only consideration that can be addressed is overshadowing and noise. It is accepted that the rear garden areas for the dwellings on Old Road are small, and that they are sensitive to overshadowing. The roof of the outbuilding is visible from within neighbouring gardens with the potential impact upon the amenity space of nos.68-72 Old Road. It is not considered that the potential overshadowing would cause significant harm to the residents of these dwellings.

It is also accepted that the proposal will increase the height of the built up nature of the site, as the rear wall and roof will be above the brick wall by approximately 20cm. In terms of possible noise from the summer house, if this is beyond acceptable levels then this would be dealt with via environmental protection.

- 5.2.7 Boundary treatments – During the application process the officer sought to clarify what was intended for the boundary treatments on site. The agent for the application clarified that there was no intention to increase the height of the walls on site. One of the other issues on site is the removal of an existing outbuilding, and what boundary treatment will replace this. It is intended to match the replacement with the rest of the wall on site, as stated in an email (21st May 2018).
- 5.2.8 Planting on site – Within the comments from neighbouring residents, they object to the placing of plants close to their boundaries as they may lead to overshadowing within their amenity space. A resident of a dwelling can plant any plant, shrub or tree wherever like, even if this does lead to some overshadowing. It is not expected that the applicant will plant large trees in this location, partly because this could lead to expensive maintenance issues in the future.
- 5.2.9 In its amended form this proposal is considered to be an improvement on the original scheme.
- 5.2.10 In terms of overlooking there is not considered to be any significantly negative issues. In terms of overshadowing the proposed outbuilding led to several objections from neighbouring residents, but after visiting the site it was not

considered to lead to a significant level over overshadowing. 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 the proposals will not significantly impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies.

- 5.2.11 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 **Highways Issues**

- 5.3.1 Parking – The reconfiguration of the internal boundary of the site has reduced the size of plot 2; this has changed the shape and size of the area set aside for parking within the boundaries of this plot. It has been confirmed by the applicant that this area to the side of plot 2 will be hard surfaced and utilised for parking in the future. With regards to plot 1, within the boundary of the front garden and hardstanding area there are two parking spaces which are considered to be an adequate size. The turning and manoeuvring area in front of both dwellings is considered to be a separate area, and shouldn't be utilised for parking if possible, as it may block the safe entry or exit of vehicles trying to access the parking spaces within the individual plots.
- 5.3.2 The proposal for plot 1 includes 2 parking spaces, which is considered acceptable. It is still proposed to have 2 parking spaces upon their site. The access situation is not considered to be ideal and there were several safety issues with this previously, but as this is not part of the material amendment it is not being considered as part of the application.
- 5.3.3 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.

5.4 **Flood Risk/Drainage**

- 5.4.1 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 Council's Design Services Team had no objections.

5.5 **Land Condition/Contamination**

- 5.5.1 The site the subject of the application is currently developed land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy. This issue has been considered as part of the previous application.
- 5.5.2 In respect of potential Coal Mining Risk, the site lies within the High Risk Area, but any issues related to this should have been dealt with during the previous application, as plot 2 has already been built on site.

6.0 **REPRESENTATIONS**

- 6.1 As a result of neighbour notification, the residents of four separate dwellings provided letters of representation prior to the re-positioning of the dwelling with the following comments:
- 6.2 Resident of no.68 Old Road – Their concerns include their inability to maintain their rear wall, the close distance between the new outhouse and their rear wall as well as the potential for this building to overshadow their garden.
- 6.3 Resident of no.70 Old Road – The applicant has concerns that the outhouse is too close to their boundary; this will mean that any future maintenance of this wall will be extremely difficult and that it will be a fire risk. They also consider it to be too high, and will lead to overshadowing into their garden and outhouse. As well as this, they are concerned that if social gatherings occur within the summer house that it will impact upon the privacy and tranquillity of their rear amenity space. The proposed trees on this boundary also concern them.

- 6.4 Resident of no.343A Chatsworth Road – The resident is of the opinion that the revised drawings are an improvement in terms of its position and change from a dormer bungalow to just a bungalow. Although it is still noted that it has been moved closer towards Chatsworth Road (than the originally approved scheme). They were also against any possible increase in height of the boundary, as the rear section of their garden is not very wide and any increase in height could cause a significant impact upon their enjoyment of this space. Also, the ground levels appear to vary in height on either side of the wall, and they are aware that if the height was considered from the applicant's side (such as 2m) that this would be higher on their side.
- 6.5 Resident of no.70 Old Road – They were against the building of the outbuildings as they would block access to maintain their boundary wall, they could also block out daylight. They are also not happy with the prospect of the proposal being built, as during the last period of building works there noise from early morning until late afternoon/evening, dust and dirt being blown onto their land and lorries coming to site causing disruption. This occurred for a number of years.
- 6.6 ***In response to the comments made, the proposed hours of works will be controlled by a condition to restrict work hours, the right to access boundary walls for maintenance purposes is not a planning issue, fire risk is not a planning issue and plant/shrub types can be controlled with suitable conditions so large trees are not planted close to neighbouring boundaries. The issues of overlooking, overshadowing and boundary treatments will be dealt with within the report.***

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 paragraph 38 of the July 2018 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 As new housing the proposal is CIL liable however having regard to the nature of the material amendment application proposing a change to a previously submitted approval with a decrease in floorspace, there is unlikely to be a CIL charge.

10.0 **CONCLUSION**

10.1 The proposal 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.

11.0 **RECOMMENDATION**

11.1 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.
02. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
03.
 - 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 history of the site.
 - II. A site investigation/Phase 2 report where the previous indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

III. A detailed scheme of remedial works should the 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.

04. 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.

05. Unless otherwise agreed in writing by the local planning authority, no development shall take place until space is provided within the site curtilage, for site accommodation, storage of plant and materials, parking and manoeuvring of site operative's and visitor's vehicles together with the loading/unloading and manoeuvring of goods vehicles. The space shall be constructed and laid out to enable vehicles to enter and leave the site in a forward gear, in surface materials suitable for use in inclement weather and maintained free from impediment throughout the duration of construction works.

06. No part of the development hereby approved shall be occupied until space has been laid out within the site in accordance with the approved plan for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Unless otherwise agreed in writing by the Local Planning Authority, these areas shall be retained as such thereafter free from any impediment to their designated use.
07. 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 erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.
08. Unless otherwise agreed in writing by the Local Planning Authority 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.
09. In the event it is proposed to import soil onto site in connection with the development the proposed soil shall be sampled at source and analysed in a MCERT certified laboratory, the results of which shall be submitted to the Local Planning Authority for consideration. Only the soil approved in writing by the Local Planning Authority shall be used on site.
10. Upon commencement of development, details of signs advising drivers that vehicles entering the site have priority shall be submitted to the Local Planning Authority for consideration. Only those details approved in writing by the Local Planning Authority shall be implemented as part of the development and shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

11. All external dimensions and elevational treatments shall be as shown on the approved plans:
- Site Layout. Drawing no. DSC.695.A3.07 A (received July 2nd 2018),
 - Email correspondence received July 19th 2018 regarding materials and parking,
 - Email correspondence received 21st May 2018 regarding walls.
 - Site Location Plan,
 - Proposed Plans, Elevations and Typical Section ; with the exception of any approved non material amendment.

Reasons for Conditions

01. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
02. In the interest of satisfactory and sustainable drainage.
03. To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.
04. 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.
05. In the interests of highway safety.
06. In the interests of highway safety.
07. In the interests of the amenities of occupants of adjoining dwellings.
08. In the interests of residential amenities.
09. To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.

10. In the interests of highway safety.
11. 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.

Notes

01. The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.
02. Where a desk study and site investigation is undertaken, the following will be required: - (a) A conceptual site model. (b) All laboratory testing must be UKAS accredited. (c) MCERTS accreditation will be required for certain soil analysis. (d) ICRCL has now been withdrawn. However, it can be used for background comparisons. (e) CLEA reports should be included as an attachment to the main report. It is advisable to contact the Borough Councils Environmental Services on 01246 345767 prior to any site investigations being undertaken.
03. 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 planning application.

04. 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.