

Case Officer: Eleanor Casper
Telephone No: 01246 345785
Report Date: 24th July 2018

File No: CHE/18/00349/FUL
Plot No: 2/4686
Committee Date: 6th August 2018

ITEM 5

PROPOSED RESIDENTIAL DEVELOPMENT TO FORM 2 NO, 3 BED DETACHED DWELLINGS WITH OFF ROAD PARKING (REVISED DRAWINGS RECEIVED 19.07.2018) AT 12 CAVENDISH STREET NORTH, OLD WHITTINGTON, S41 9DH FOR MR P KITCHEN

Local Plan: Unallocated
Ward: Old Whittington

1.0 CONSULTATIONS

DCC Highways Authority	Comments received - see report
Design Services (Drainage)	Comments received, no objection – see report
Urban Design Officer	Comments received, amendments made to plans and revised drawings submitted- see report
Environmental Health	Comments received, no objection – see report
Forward Planning/Policy Team	Comments received - see report
Ward Members	No comments received
Yorkshire Water	No comments received
Neighbours	One representation received – see report

2.0 THE SITE

2.1 The site the subject of the application consists of the side garden of No 12 Cavendish Street North. The plot is rectangular in shape measuring 14m in width and 29.7m in length. Cavendish Street North highway slopes from north to south, as a result the application site occupies an elevated position with respect to No 8 Cavendish Street North. Topographical information provided by the applicant shows a variation in land levels between the application site and No 8 Cavendish Street North of 0.5m to 1m across the site.

2.2 No 12 Cavendish Street North a two storey, detached property located to the north of the plot. The dwelling is currently undergoing work to remove the existing windows within the south (side) elevation in order to re-orientate the dwelling, creating a principle elevation fronting onto Cavendish Street North highway to the west (see application CHE/18/00113/FUL). It is noted that the plot is currently being utilised for the storage of materials and waste in relation to the building works at No 12, including a large mound of earth in the centre of the site.



Photo taken from Cavendish Street North highway facing south east towards site



Photo taken facing north east towards the side elevation of No 12 Cavendish Street North

2.3 The surrounding residential properties on Cavendish Street North are formed of a mixture of detached and semi-detached properties which are predominantly two storey in character, which vary in age and architectural style.

3.0 **RELEVANT SITE HISTORY**

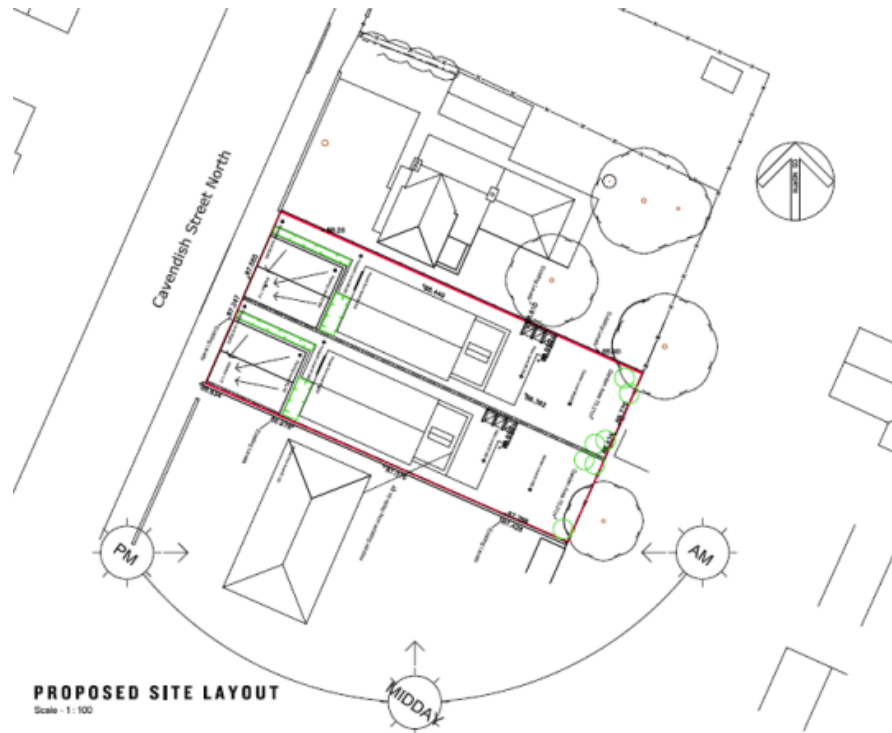
- 3.1 CHE/1185/0716 - Permission for 2 semi - detached houses on land at Cavendish Street North, Old Whittington, Chesterfield for Mr. P. Taylor at land at Cavendish Street North – **CONDITIONAL PERMISSION (24.01.1986)**
- 3.2 CHE/17/00273/OUT - Detached dwelling with access and parking and alterations to fenestration of existing dwelling at 12 Cavendish Street North – **REFUSED (22.06.2017)**
- 3.2.1 ***Reason for refusal; 'It is considered that insufficient information has been submitted with the application to properly assess the impact of the development proposals upon the privacy and amenity of the neighbouring property at No 12 Cavendish Street North. The principle elevation of No 12 and its primary habitable room windows currently face south immediately over the application site and the introduction of a new dwelling on this plot would result in an overbearing and overshadowing impact upon these windows which is considered contrary to the provisions of policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011 - 2031 and the principles of the Councils adopted SPD Successful Places: A Guide to Sustainable Housing Layout and Design. In the absence of any existing and proposed floorplans and elevation drawings of the necessary changes needed to No 12 to overcome this impact the planning permission cannot be granted.'***
- 3.3 CHE/17/00586/FUL - Erection of a two storey dwelling - revised drawings received 1.11.2017 at land adjacent to 12 Cavendish Street North– **CONDITIONAL PERMISSION (06.12.2017)**
- 3.4 CHE/18/00113/FUL – Renovation of existing house to bring front entrance to road elevation with internal alterations at 12 Cavendish Street North – **CONDITIONAL PERMISSION (16.05.2018)**

4.0

THE PROPOSAL

4.1

The application submitted seeks full planning permission for the proposed erection of two, three bedroom houses. The proposal will split the site into two individual plots. In response to the sloping topography of the site, the dwellings will have a stepped appearance within the streetscene. The proposed dwellings are each served by two parking spaces and private amenity space of 70 sqm.



- 4.2 The proposed detached dwellings are two storey in character, each formed of a dual pitched roof with gable end fronting Cavendish Street North highway. The dwellings are identical in size and layout, both measuring 5.4m x 12.2m in footprint at ground floor level and 5.4m x 9.1m in footprint at first floor level. Each dwelling measures 7.7m in height to the ridge and 5m to the eaves.
- 4.3 Internally the ground floor of the proposed dwellings consists of living accommodation with a separate kitchen. The ground floor accommodation is served by bi-fold doors facing towards the rear garden and a ground floor window within the side (north) elevations, providing light to the dining area. The kitchen area has one window within the principle elevation, facing towards Cavendish Street North highway. The first floor of the proposed dwelling includes three bedrooms, one with en-suite and a family bathroom. Each bedroom is served by a single window, two within the rear elevation and one within the principle elevation. A landing window is proposed at first floor level within the side (north) elevations and a window serving the en-suite bathroom is proposed within the south (side) elevations at first floor level. The submitted application form states that external materials are to be agreed by condition.
- 4.4 The application submission is supported by the following plans / documents:
- 'Location Plan' Drawing number 36, dated 18.05.2018
 - 'Site Survey' Drawing number S9026, dated January 2018 produced by Haycock + Todd Land Survey Consultants Architectural Surveyors
 - Revised 'Site layout' Drawing number PL33, dated 18.05.2018
 - Revised 'House Type' Drawing number PL34, dated 18.05.2018
 - 'Street Elevation' Drawing number PL35, dated 18.05.2018

5.0 CONSIDERATIONS

5.1 Planning Policy Background

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the saved policies of the Replacement Chesterfield

Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

5.2 Chesterfield Local Plan: Core Strategy 2011 – 2031 ('Core Strategy')

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS6 Sustainable Design
- CS7 Managing the Water Cycle
- CS8 Environmental Quality
- CS9 Green infrastructure and biodiversity
- CS10 Flexibility in delivery of Housing
- CS18 Design
- CS20 Influencing the demand for travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (July 2018)
- SPD 'Successful Places: A Guide to Sustainable Housing Layout and Design' (adopted July 2013)

5.4 Key Issues

- Principle of development (section 5.5)
- Design and appearance of the proposal (section 5.6)
- Impact on neighbouring residential amenity (section 5.7)
- Highways safety and parking provision (5.8)
- Flood risk and drainage (5.9)
- Land quality (5.10)

5.5 Principle of Development

Relevant Policies

- 5.5.1 The application site is situated within the built settlement of Old Whittington. The area is predominantly residential in character therefore policies CS1, CS2, CS10 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.

- 5.5.2 *Policy CS1 states that ‘The overall approach to growth will be to concentrate new development within walking and cycling distance of centres.’*
- 5.5.3 *Policy CS2 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.’
- 5.5.4 *Policy CS10 states that ‘Planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or if annual monitoring shows that there is less than a 5-year supply of deliverable sites and where:*
- a) they accord with the strategy of ‘Concentration and Regeneration’ as set out in policy CS1 and the criteria set out in policy CS2; or*
 - b) a specific housing need can be demonstrated that can only be met within a particular location’*
- 5.5.5 The Strategy Planning Team (Forward Planning Team) were consulted on the proposal and provided comments on the principle of development with respect to planning policy (see paragraphs 5.5.6 to 5.5.13 below)(NPPF references relate to the 2012 version).
- 5.5.6 *‘1. Policy Allocation - The application site is a residential garden and is considered a greenfield site as it would not meet the definition of previously developed land set out on page 55 of the NPPF. The NPPF specifically excludes private residential gardens within built-up areas from the definition of previously developed land (annex 2: Glossary). The Chesterfield Borough Core Strategy does not include specific policies on the development of residential gardens; instead*

the primary considerations are policies CS10 in terms of the principle of development, CS1 and CS2 in terms of the location and CS18 in terms of design and impact upon the environment and amenity.'

- 5.5.7 *'2. Principle of Development - Policy CS10 states that "planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or...there is less than a 5 year supply of deliverable sites." As the council is currently able to demonstrate a [five year supply](#) of deliverable housing sites, a strict interpretation of policy CS10 would indicate that planning permission should not be granted for the development of residential gardens or small scale greenfield urban infill plots. However the NPPF is also clear that "Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development" (NPPF para 186). Decisions should be plan-led unless material considerations indicate otherwise and LPAs should apply the presumption in favour of sustainable development when determining development proposals. Policy CS10 must be read in combination with policy CS1, the spatial strategy, which sets out that the overall approach to growth will be to concentrate new development within walking and cycling distance of centres. The site is less than 400m from the nearest designated local centre at Old Whittington. The site therefore meets the requirement of CS1.'*
- 5.5.8 *'Considering the scale (two dwellings), the type and location of site (infill site within the settlement that does not encroach into open countryside), and the proximity to a local centre, an exception to CS10 can be considered in this case. Given that the aim of CS10 is to ensure a supply of housing land that meets the aims of the Core Strategy, and the presumption in favour of sustainable development (set out in paragraph 14 of the NPPF), the principle of residential development on this site is acceptable.'*
- 5.5.9 *'However, there are concerns regarding the design and layout of the proposed dwellings, and whether the proposal meets CS2 with regard to acceptable impacts on amenity and CS18 with regard to design. Policy CS18 (c) states that the density of dwellings should be appropriate to the character of the surroundings whilst considering higher densities in sustainable locations in line with Policy CS1. The plot is in a sustainable location however the size and amenity space proposed within is not in line with the character of existing properties.'*

- 5.5.10 *'The proposal is lacking the necessary information to support a full planning application. No information has been provided on how the proposal meets the requirements of CS6. Although the Code for Sustainable Homes has been abolished, the criteria a to d of policy CS6 remain relevant and the applicant should be asked to submit additional information setting out how the proposal meets these criteria.'*
- 5.5.11 *'Loss of garden land would be considered as loss of Green Infrastructure under policy CS9, which requires a net gain in quality, quantity or function and enhancement of biodiversity. The proposal does not comply with this policy.'*
- 5.5.12 *'The development would be subject to the Community Infrastructure Levy (CIL). The proposed development falls within a 'medium' CIL zone and would therefore be eligible for a levy of £50 per m² of the gross internal floorspace.'*
- 5.5.13 *'Concluding comments - Although an exception could be made to CS10 in this case due to sustainability of location and scale of development, the proposal does not comply with CS2, CS9 or CS18. The applicant may want to consider a revised proposal for one dwelling, with further information submitted regarding sustainable design (CS6), sustainable drainage (CS7), and net gains in green infrastructure/biodiversity enhancements (CS9).'*

Principle of Development

- 5.5.14 The site is located within a reasonable walking distance of a centre, less than 400m from the defined local centre of Old Whittington and close to bus routes in and out of Chesterfield. The site is therefore considered to be sustainably located and accords with the principles of policy CS1. Amendments made to the scheme are considered to enable the proposal to meet the design and amenity requirements of CS2 and CS18.
- 5.5.15 Comments from the Policy Team suggest that the loss of garden space is considered to be a loss of green infrastructure. The definition of green infrastructure contained within the adopted Core Strategy is as follows; *'This is a strategic network of multi-functional green space, both rural and urban, which supports natural and ecological processes, has the potential to provide sustainable transport routes and is integral to the health and quality of life in*

sustainable communities.' (p159). It is accepted that the plot/former garden supports natural/ecological processes however the garden is not part of a strategic network. The proposed development will retain 140sqm of designated garden space to the rear which is also bound by rear gardens of the properties on Swanwick Close and it is not considered that the loss of garden space on the basis of Policy CS9 is a strong defensible reason for refusal. Policy CS2 also makes reference to the site not being on land of high environmental value. It is accepted that the site would not fall into this category of sites.

- 5.5.16 Policy CS10 refers to the development of unallocated 'greenfield land' as being inappropriate whilst the Council is able to demonstrate a deliverable 5 year supply of housing land. It is clear that domestic gardens are excluded for the definition of previously developed land and it follows therefore that they are regarded as greenfield. It is clear however that infill plots within established residential areas which are sustainably located and meet the objectives of concentration of development should not be resisted necessarily on the basis of the strict definitions in the policy. Furthermore the 2018 NPPF is also clear that "Local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible. (NPPF para 38). Policy CS10 must be read in combination with policy CS1 which sets out that the overall approach to growth which is desirable will be to concentrate new development within walking and cycling distance of centres. On the basis that the proposed site is considered to be sustainably located it is considered that the proposal is acceptable.
- 5.5.17 Comments received from the Strategy Planning Team also reference policy CS6 and suggest that the applicant must set out how the proposed development will meet criteria a to d of this policy. Local Plan policy CS6 requires that residential development meets level four of the Code for Sustainable Homes (Level 5 will be required if built from 2017), however following the Deregulation Act and removal of the Code for Sustainable Home, this is no longer a requirement that can be applied. Criteria a to d of policy CS6 are now covered by different legislation, predominately Building Regulations. It is therefore not considered necessary to require the applicant to submit further information to satisfy policy CS6 to the proposal.

5.5.18 Consideration of the principle of development in respect of the design/appearance of the proposal and potential impact on neighbours (CS18 and CS2) will be covered in the following sections (5.6 and 5.7). Consideration of issues relating to drainage (CS7) will be covered in section 5.9.

5.6 Design and Appearance of the Proposal

Relevant Policies

5.6.1 Policy CS18 (Design) 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.'*

5.6.2 Core Strategy Policy CS2 states that *'all developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts'*.

5.6.3 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.

Design and Appearance

5.6.4 The design of the proposed dwellings shows some consideration to the context of the area and it is accepted there is variation within the immediate streetscene. Various roof styles are visible from the application site, including hipped and dual pitched roofs. Nos 7 to 17 Cavendish Street North situated on the west side of Cavendish Street North, incorporate intersecting gables to the principle elevation. The introduction of a gable to the streetscene is therefore not considered to significantly harm the visual appearance and character of the area. The revised plans also illustrate the provision of a bin store to the rear of the dwellings and areas of soft landscaping, this is considered to be a preferable arrangement which would enhance the streetscene.

- 5.6.5 The revised drawings submitted seek to respond to concerns raised by the Urban Design Officer regarding the siting and massing of the proposal. Revised plans relocate the principle elevation of the dwellings 1m further west, to create a consistent building line with No's 12 and 8 Cavendish Street North. The rearwards projection of the single storey element of the development has also been reduced and is stepped in design in an attempt to mitigate potential adverse impacts on the adjoining neighbours. Potential impacts on amenity of the surrounding occupiers will be discussed in section 5.7 below.
- 5.6.6 The revised block/layout plan shows gardens for each dwelling measuring approximately 70m² in area. The 'Successful Place' SPD details the minimum size outdoor amenity space required for a new dwelling. A three bedroom house requires a minimum of 70m² therefore the proposal meets the requirements of the 'Successful Places' SPD in terms of size, this is considered to be acceptable.
- 5.6.7 Having consideration for the observations above the proposal is considered to be acceptable with respect to layout and design and would not result in significant adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the design provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF.

5.7 Impact on Neighbouring Residential Amenity

- 5.7.1 Core Strategy Policy CS18 states that all development will be expected to *'have an acceptable impact on the amenity of users and neighbours'*
- 5.7.2 The application site is adjoined by No 12 Cavendish Street to the north and No 8 Cavendish Street to the south. The rear garden of the application site is bound by No's 16, 18, 20 and 22 Swanwick Street to the east. No's 9, 11, 13 and 15 Cavendish Street North face the application site to the west, on the opposite side of Cavendish Street North highway.

Impact on No 8 Cavendish Street North

- 5.7.3 No 8 is a two storey, semi-detached dwelling situated to the south of the application site. A small brick wall forms the shared boundary between No 8 and the application site and the site occupies an elevated position with respect to No 8 (see images below). The

dwelling has a first floor window with the side (north) elevation of the dwelling facing towards the application site. The window is considered to serve a landing/staircase and is therefore classified as secondary window serving a non-habitable room (see images below).



- 5.7.4 Revised plans submitted seek to mitigate adverse impacts on the occupants of No 8 by moving the dwelling 1m further west and reducing the rearwards projection of the single storey extension by 0.4m. The two storey element of the development extends beyond the rear elevation of No 8 by 2.5m, whilst it is accepted that the mass of the extension will be visible from the rear garden and rear windows of No 8 particularly due to the elevated nature of the site, potential adverse overbearing impacts are not considered to be significant enough to warrant a refusal.
- 5.7.5 A separation distance of 2m is proposed between the side elevation of No 8 and the proposed dwelling. Topographical information provided by the agent shows that the finished floor level of the dwelling situated closest to No 8 will be 0.319m above the existing floor level, this is considered to be acceptable. The proposed dwellings are also designed to take account of the gradient along the street and which achieve a graduated 'stepped' appearance.
- 5.7.6 The application proposes a first floor window in the side (south) elevation of the dwellings facing. The window is proposed to serve a landing and it is recommended that a condition be attached to the decision requiring windows in the side elevation at first floor level, to be installed obscurely glazed and with a fixed opening.
- 5.7.7 The application site is situated to the north of No 8, due to the orientation of the development with respect to No 8, potential loss of light arising as a result of the proposal is considered to be minimal.

Impact on No 12 Cavendish Street North

- 5.7.8 No 12 Cavendish Street North is a two storey, detached dwelling situated to the north of the application site. Works to the property have been approved and undertaken to remove the original windows within the side (south) elevation which may have been adversely impacted by development to the south (see images below).



- 5.7.9 The two storey element of the development extends beyond the rear elevation of No 12 by 2.5m. Due to the orientation of the proposal with respect to No 12, it is accepted that the proposal will result in a loss of light to the windows in the side (south) elevation of No 12. A separation distance of 6m exists between the side (north) elevation of the proposed dwelling and No 12.
- 5.7.10 Based on the observations made above potential adverse impacts of overshadowing are not considered to be significant enough to warrant a refusal.

No's 20, 22 and 22a Swanwick Close

- 5.7.11 The rear gardens of properties situated to the east of the site (No's 20, 22 and 22a Swanwick Close) adjoin the eastern boundary of the site with rear gardens adjoining the application site, separated by a timber fence boundary treatment. The separation distance between the proposed dwellings and the properties on Swanwick Close meets the requirements of the SPD, therefore potential adverse impacts of overlooking/overshadowing arising as a result of the development are considered to be minimal.

Impact on all other boundary sharing neighbours

- 5.7.12 Due to the scale and orientation of the proposed development relative to the adjoining dwellings, it is not considered that the development would cause any significant injury to the residential amenity of the neighbours.

- 5.7.13 Having consideration for the observations above the proposal is considered to be appropriately designed and is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. The proposal will therefore accord with the design provisions of policy CS18 of the Core Strategy.
- 5.7.14 In respect of other environmental considerations the Council's Environment Health Officer (EHO) has also reviewed the application submission and requested the hours of construction be restricted to protect the amenity of the adjoining residential properties. It is therefore considered that an appropriate planning condition can be imposed on any consent given to restrict construction hours accordingly.

5.8 Highway Safety and Parking Provision

- 5.8.1 The application submission has been reviewed by the Local Highways Authority and the following comments were provided;
- 5.8.2 *'From the highway point of view there are no objections to the proposal and it is recommended that the following conditions are included in any consent.'*
- 5.8.3 *'1. Before any other operations are commenced new vehicular and pedestrian accesses shall be formed to Cavendish Street North in accordance with the application drawings and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 25 metres in both directions measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.*
- 2. Before any other operations are commenced, excluding construction of the accesses referred to in Condition 1 above, 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 designated use throughout the construction period.

3. The proposed dwellings shall not be occupied until space has been laid out within the site in accordance with the application drawing for cars to be parked. Thereafter the spaces shall be maintained free from any impediment to their designated use for the life of the development.

4. There shall be no gates or other barriers on the accesses/driveways.

5. The proposed accesses/driveways to Cavendish Street North shall be no steeper than 1:14 over their entire length.'

- 5.8.4 In addition a number of notes are recommended to be included for the benefit of the applicant. These can be added to any approval issued.
- 5.8.5 The Planning Policy Team and Environmental Health Officer also highlight requirements for electric charging points on all new dwellings. It is therefore recommended that a condition be attached requiring the installation of electric charging points as part of the build phase.
- 5.8.6 **Comments – The above comments have been noted. Condition 1 requires the applicant to install and retain vehicular access to the site with visibility sightlines of 2.4m x 25m. Due to the width of the existing pavement, the requested sightlines are already situated within adopted highway and therefore are not within the control of the applicant. Conditions 2, 3 and 4 are considered to be reasonable and it is recommended that they are attached to a decision if the application is approved. Condition 5 should be included as an informative note with the recommended notes.**

5.9 Flood Risk and Drainage

- 5.9.1 Having regard to the provisions of policy CS7 (Managing the Water Cycle) of the Core Strategy the application submission was referred to Yorkshire Water Services (YWS) and the Council's Design Services (DS) team for comments in respect of drainage and flood risk.

- 5.9.2 Design Services (Drainage) were consulted on this application and raised no objection to the proposal. The site is not shown to be located within an area at risk of flooding on the Environment Agency flood maps. The Design Services (Drainage) Officer requests that the applicant seeks prior approval from Yorkshire Water for connection to the public sewer and states that any new drainage for the development may require Building Control Approval. An informative note should be attached to the decision notice to make the applicant aware of the minimum standards for drainage in the Chesterfield area.
- 5.9.3 Yorkshire Water were consulted on the proposal, no comments were received.
- 5.9.4 Based on the comments listed above, the proposal is considered to accord with policy CS7 of the Core Strategy.

5.10 Land Quality

- 5.10.1 Having regard to land condition and the requirements of the NPPF and policy CS8 of the Core Strategy the planning application site lies in an area covered by the Coal Authority's standing advice area and as such it was not necessary to consult The Coal Authority on the proposal, standing advice should be attached to a decision as an informative note.
- 5.10.2 The Environmental Health Officer requested that a desk based study be undertaken to ensure the site is suitable for residential use and free from contamination. It is recommended that a condition be attached requiring this to be undertaken prior to the commencement of works.
- 5.10.3 On the basis of a condition requiring the completion and submission of a contamination desk study. The proposal is therefore considered to accord with policy CS8 of the Core Strategy.

5.11 Community Infrastructure Levy (CIL)

- 5.11.1 The application proposes the creation of new dwellings and the development is therefore CIL Liable.

5.11.2 The site the subject of the application lies within the medium CIL zone (£50/sqm) and therefore the CIL Liability would be based on the calculations of gross internal floor space on this basis.

		A	B	C	D	E
Development Type	Proposed Floor space (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index permission	Index charging schedule	CIL Charge
Residential (C3)	189	189	£50 Medium Zone	317	288	£10,401

Net Area (A) x CIL Rate (B) x BCIS Tender Price Index (at date of permission) (C) = CIL Charge (E)
 BCIS Tender Price Index (at date of Charging Schedule) (D)

$$\frac{189 \times 50 \times 317}{288} = \mathbf{£10,401}$$

6.0 REPRESENTATIONS

6.1 The application has been publicised by neighbour notification letters sent on 22.05.2018, deadline for responses 12.06.2018. A site notice was also displayed on 22.05.2018, deadline for responses 12.06.2018.

6.2 As a result of the notification process one letter of representation has been received

8 Cavendish Street North

6.3 Concerns raised within written representation have been summarised in the following bullet points;

- Overdevelopment of plot with a detrimental impact on No 8
- Siting of development and proximity would be overbearing due to the sloping of the land
- Length of house is twice that of No 8 resulting in a huge expanse of wall viewed from landing, rear windows and garden of No 8.
- Landing and rear windows of No 8 would be darker due to loss of light

- Loss of space between properties creating issues for future maintenance and scaffolding
- Concerns about safety during construction for occupants of No 8 using passageway adjacent to site
- Concern regarding damage to property
- Existing boundary wall is cracked and leaning towards No 8, concern that development will cause collapse due to close proximity
- Existing issues with surface water flooding from the application site causing damage to No 8
- If a retaining wall is to be built and fence, provision should be made for drainage to be installed

6.4 ***Comments - The above comments have been noted. Revised drawings seek to address concerns by moving the dwelling further west in order to reduce the overall rearwards projection of the two storey element of the development. The proposed dwellings will be stepped along the site and as a result the finished floor level will be 0.3m above existing at No 8, this is considered to be acceptable. The application site is situated to the north/north east of No 8, therefore potential adverse impacts of overshadowing are considered to be minimal. Concerns surrounding safety during the construction process, future maintenance and drainage are considered to be a 'non-material' planning consideration, covered by building regulations and classified as a private civil matter between parties and as such cannot be given any weight in the determination of this application. No details have been provided regarding boundary treatments, a condition will be attached to the decision requiring the submission of this information prior to installation.***

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 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 paragraph 38 of the July 2018 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 Overall the proposal is considered to be acceptable in design and appearance terms. The proposed dwelling is considered to be in keeping with the character of the surrounding area. The location of the proposed development site is relatively sustainable, sited within a residential area with access to local services. It is not considered that the proposal would result in significant impact on the residential amenity of the neighbouring properties. The proposal would not compromise parking arrangements or highway safety. Therefore, the proposal is considered to accord with policy CS1, CS2, CS7, CS8 and CS18 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework. This application would be liable for payment of the Community Infrastructure Levy

10.0 **RECOMMENDATION**

- 10.1 That a CIL Liability Notice be served in line with paragraph 5.11 above.
- 10.2 That the application be **GRANTED** subject to the following conditions and notes:

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 (listed below) with the exception on any approved non material amendment

- 'Site Survey' Drawing number S9026, dated January 2018 produced by Haycock + Todd Land Survey Consultants Architectural Surveyors
- Revised 'Site layout' Drawing number PL33, dated 18.05.2018
- Revised 'House Type' Drawing number PL34, dated 18.05.2018

- 'Street Elevation' Drawing number PL35, dated 18.05.2018

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. Construction 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.

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.

Reason - 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. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved application drawings for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

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

property without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of highway safety.

07. An Electric Vehicle Charging Point shall be installed as part of the build phase and which shall be retained available for use for the life of the development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

08. 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.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard

- 09. Prior to the occupation of the development hereby approved, details of all boundary treatments shall be provided to the Local Planning Authority for written approval. The approved boundary treatments shall be maintained at all times in that position, unless written approval to any variation is given by the Local Planning Authority.

Reason- In the interests of the privacy and amenity of occupants of the neighbouring dwelling

- 10. Notwithstanding the details shown on the approved plan Revised 'House Type' Drawing number PL34, dated 18.05.2018 the first floor windows proposed in the north (side) elevation, serving the landing and side (south) elevation serving the en-suite bathroom shall be installed obscurely glazed and shall only be with an opening above 1.7m high relative to internal floor level and shall thereafter be retained as such in perpetuity.

Reason – To protect the amenity of the adjoining residential occupiers

11. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
03. 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).
04. 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.

05. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

06. 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 & Environment 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 by email ETENetmanadmin@derbyshire.gov.uk, telephone Call Derbyshire on 01629 533190 or via the County Council's website
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp

07. The Highway Authority recommends that the first 6m of the proposed access driveway 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 landowner.

08. The proposed access/driveway to Cavendish Street North shall be no steeper than 1:14 over its entire length.