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Report Date: 05.09.2018

File No: CHE/17/00867/FUL
Plot No: 2/705
Committee Date: 17.09.2018

ITEM 2

PROPOSED ERECTION OF A 3 BEDROOM DORMER BUNGALOW WITH GARAGE (REVISED PLANS RECEIVED 26.06.2018) AT LAND ADJACENT TO 19 BENTHAM ROAD CHESTERFIELD, S40 4EZ FOR MISS MICHELLE HARDY

Local Plan: Unallocated
Ward: Brockwell

1.0 CONSULTATIONS

DCC Highways Authority	No objection, subject to condition - see report
The Coal Authority	Objection withdrawn, subject to condition – see report
Design Services (Drainage)	Comments received, no objection – see report
Environmental Health	Comments received, no objection – see report
Forward Planning/Policy Team	Comments received, no objection- 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 application site is a vacant plot of land situated on the east side of Bentham Road highway. Planning permission was granted in 2015 for the erection of an almost identical scheme, this permission has subsequently lapsed and site investigations identified a mine shaft

within the site curtilage which required the siting of dwelling to be amended to meet the requirements of The Coal Authority.



2.2 The shape of the plot is unusual measuring 16m in width along the Bentham Road frontage and includes a narrow 'dog-leg' extending to the rear of No's 2 and 4 Barbon Close. The site is bound by a small-private cul-de-sac serving No's 7 to 15 Bentham Road to the east and south.

2.3 The surrounding streetscene on Bentham Road is formed of residential dwellings which are mixed in architectural style, age and character.

3.0 **RELEVANT SITE HISTORY**

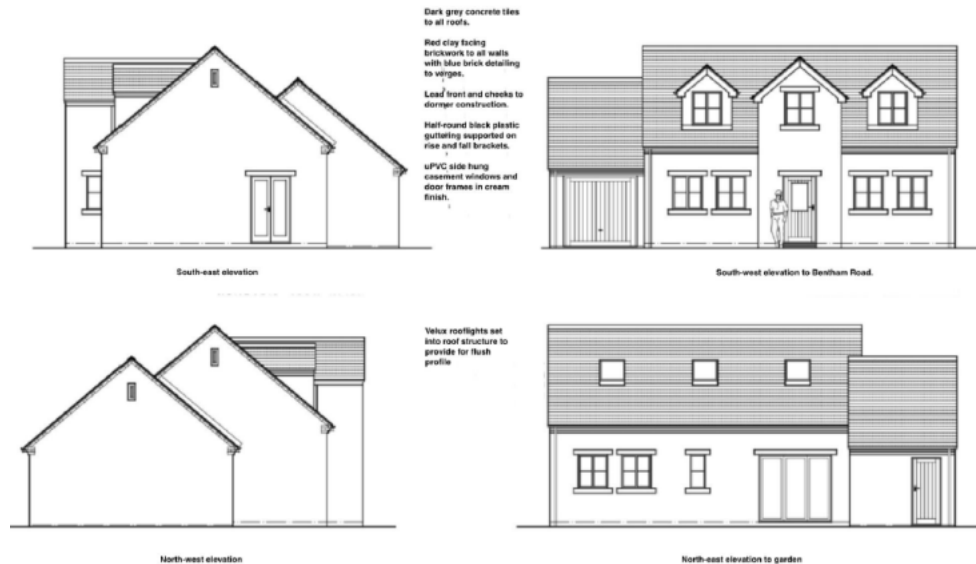
3.1 CHE/14/00837/FUL - Erection of detached dwelling and garage – **CONDITIONAL PERMISSION (24.02.2015)**

SURROUNDING SITE HISTORY

- 3.2 CHE/05/00433/OUT - proposed housing development – five units – **CONDITIONAL PERMISSION (13.09.2005)**
- 3.3 CHE/07/00916/REM - one detached dormer bungalow at Plot 1 - **CONDITIONAL PERMISSION (24.01.2008)**
- 3.4 CHE/08/00450/OUT - Proposed residential development of four detached dwellings - **CONDITIONAL PERMISSION (09.09.2008)**
- 3.5 CHE/12/00174/REM - Reserved matters application for CHE/08/00450/OUT - detached bungalow - **CONDITIONAL PERMISSION (10.05.2012)**
- 3.6 CHE/13/00715/FUL – Construction of a three bedroom bungalow on Plot 3 - **CONDITIONAL PERMISSION (05.02.2014)**
- 3.7 CHE/13/00787/FUL – Erection of a detached dwelling on Plot 1 - **CONDITIONAL PERMISSION (04.03.2014)**
- 3.8 CHE/13/00758/FUL - Erection of a detached dwelling on Plot 2 - **CONDITIONAL PERMISSION (14.03.2014)**
- 3.9 CHE/14/00837/FUL – Erection of a 4/5 bedroom bungalow with integral garage on Plot 3 - **CONDITIONAL PERMISSION (24.02.2015)**
- 3.10 CHE/16/00428/FUL - Detached house to Plot 4 - **CONDITIONAL PERMISSION (31.08.2016)**

4.0 THE PROPOSAL

- 4.1 The application submitted seeks full planning permission for the erection of a 3 bedroom detached dormer bungalow. The principle elevation of the proposed dwelling is orientated towards Bentham Road highway to the south west and incorporates off-street parking for one vehicle and an attached garage.
- 4.2 Internally the ground floor of the proposed dwelling consists of living accommodation with a separate kitchen/diner, utility and downstairs w.c. At first floor level the dwelling comprises of three bedrooms and a shared bathroom. Overall the proposal provides 131 sqm of internal living accommodation.



4.3 The proposed dormer bungalow is formed of a dual pitched roof with intersecting gable feature to the principle elevation. The proposal measures 9.6m x 7m in footprint at ground floor level and includes an attached garage measuring 3.5m x 6.4m in footprint. The proposed dwelling measures 3.5m to the eaves and 6.35m to the ridge.

4.4 The proposal includes four windows at ground floor level within the principle elevation and french/patio doors are proposed within the side (south) elevation to serve the kitchen/diner. Three windows and sliding/patio doors are proposed within the rear (east) elevation facing towards the rear garden of the site.

4.5 The first floor of the proposed bungalow is served by two symmetrical dual pitched dormer windows and a separate window within gable feature serving the family bathroom. Three roof lights are proposed within the eastern roof plane. No fenestration is proposed within the north elevation.

4.6 The application submission is supported by the following plans / documents:

- 'Site Plan Revision' Drawing number PES1807/Site Plan Revision (dated 25.06.2018)
- 'Elevations Revision' Drawing number PES1807/Elevs (dated 25.06.2018)
- 'Plans Revisions' Drawing number PES1807/Plans (dated 25.06.2018)

Background documents

- Capping details for 2m diameter mine shaft, drawing number 38800/002 revision B (dated 14.08.2018), produced by Eastwood & Partners
- Mine shaft cap details

- Revised Layout - Supporting statement produced by Graham Bradford of Planning & Environment Studio (dated 26.06.2018)
- Exploratory hole location plan, drawing number 38800/001 revision B (dated 17.09.2015) produced by Eastwood & Partners
- Geotechnical and geo-environmental site investigations land adjacent to 19 Bentham Road, Newbold chesterfield for M, Hardy, reference 38800-01 produced by Eastwood & Partners (dated September 2015)
- Design and access statement

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 and Coal Mining Legacy (5.10)

5.5 Principle of Development

Relevant Policies

- 5.5.1 *Policy CS1 states that ‘The overall approach to growth will be to concentrate new development within walking and cycling distance of centres.’*
- 5.5.2 *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.’
- 5.5.3 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 5.5.5 to 5.5.12 below) (*NPPF references relate to the 2012 version*).
- 5.5.4 ***‘Principle of Development: CS1, CS2 & CS10 – The proposal for a 3 bedroom bungalow in this location supports the Council’s strategy around the concentration of development in sustainable locations. The Newbold Local Centre is sufficiently close to allow opportunities for walking, cycling and the use of existing infrastructure and services***

(CS2 e) can be maximised. It is appropriate to encourage this particular development under the NPPF's "presumption in favour of sustainable development" given its adherence to policies CS1 & CS2.'

- 5.5.5 **'Flood Risk & Environment: CS7** - *As there is no risk of surface water flooding on the site (located in Flood Zone 1) a flood risk assessment will not be required. Commitment to the use of SuDs should be secured if possible to further minimise flood risk.'*
- 5.5.6 **'Design Matters: CS6** - *Although the government has removed the Code for Sustainable Homes, the proposal must still set out how the development will meet criteria a-d of this policy. The submitted Design & Access Statement refers to this issue but does not set out details of how it is proposed to be met.'*
- 5.5.7 **'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. The NPPF attaches 'great importance to the design of the built environment' (para 56). The proposal appears suitable in scale and density but comments from the Urban Design Officer should be sought in order to establish whether the design fulfils the requirements of Policy CS18.'*
- 5.5.8 **'Core Strategy policy CS20** *expects development such as that proposed to demonstrate the provision of opportunities for charging electric vehicles where appropriate. Provided there are no overriding material considerations such as heritage, tree protection or viability, a charging point should be secured by condition as required by policy CS20. Given that the proposal includes the provision of a garage, this should not be an onerous requirement.'*
- 5.5.9 **'CIL Requirement** – *The Council has adopted a Community Infrastructure Levy Charging Schedule. As new residential floorspace would be created, the gross internal floor space developed would be liable for Community Infrastructure Levy (CIL) at £50 per square metre (index linked) as it falls within the 'medium' CIL zone. Exemptions are available for self-build development, although there is a specific application process to be followed by the developer/applicant in order to benefit from this.'*

- 5.5.10 ***‘Summary: The principle of development is acceptable. Advice should be sought from the urban design officer on the suitability of the design in light of CS18.’***
- 5.5.11 The Strategy Planning Team (Forward Planning Team) stated that no further comments were required on the revised plans.

Principle of Development

- 5.5.12 The application site is situated within the built settlement of Brockwell. 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.
- 5.5.13 The site is located within a reasonable walking distance of a centre, approximately 800m from the defined local centre of Newbold 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 and CS2.
- 5.5.14 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.
- 5.5.15 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 sections 5.6 and 5.7. Electric charging points (CS20) will be discussed in section 5.8. 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.
- 5.6.4 The proposed development comprises the construction of a detached dormer bungalow with a projecting two storey gable to the front. The proposal is almost identical in design to the previously approved application CHE/14/00837/FUL, the main alteration is the proposed garage is now situated adjacent to the northern elevation.
- 5.6.5 Observation of the surrounding properties shows variation within the immediate streetscene, the proposal is considered to be acceptable with respect to its design, scale and siting and as such would not appear unduly prominent within the existing streetscene.
- 5.6.6 The application form and submitted drawing state that the proposal will be faced in red bricks with grey concrete roof tiles and cream uPVC windows. The proposed materials are 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 bound by the rear gardens of No's 2 and 4 Barbon Close to the north west. No 19 Bentham Road is situated to the southeast of the application site on the opposite side of the cul-de-sac serving No's 7 to 15 Bentham Road. No's 18, 20 and 22 Bentham Road are located to the west on the opposite side of Bentham Road highway.

5.7.3 It is necessary to note that the principle of dwelling in this location has previously been established and agreed in 2015. The current application proposes amendments to the layout of the site and proposes moving the garage to the north of the site to provide appropriate separation distance between the dwelling and the identified mineshaft.

Impact on No 19 Bentham Road

5.7.4 No 19 Bentham Road is a situated to the south of the application site. The dwelling appears to be served by two windows within the north (side) elevation of the dwelling facing towards the application site. The ground floor of the dwelling is screened by a large timber fence (see image below). The main habitable room windows occupy an elevated position with respect to the plot and appear at first and second floor level when viewed from the site.



5.7.5 The proposed side (south) elevation of the dwelling incorporates french doors, located approximately 12m from the side (north) elevation of No 19. The proposed french doors face towards the timber fence boundary treatment and as such have no direct line of sight to the elevated windows at No 19. It is recommended that a condition be attached to the decision requiring the submission of proposed boundary treatments prior to installation. Boundary treatments along the southern boundary are considered to screen the french doors and further prevent direct overlooking. It is not considered that the development would result in a harmful loss of privacy or appear unduly overbearing to the occupants of this dwelling.

Impact on all other boundary sharing neighbours

5.7.6 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 with respect to overshadowing and overlooking.

5.7.7 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.

5.7.8 In respect of other environmental considerations and impacts on the amenity of the adjoining occupiers it is considered reasonable to restrict the hours of construction 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 *'This application does not appear dissimilar to CHE/14/00837 to which the Highway Authority raised no objections subject to certain conditions and notes being included in any consent. It is considered that the same comments, conditions and notes are still applicable and are repeated below for your ease of reference.'*

5.8.3 *'The applicant should be aware that the area where vehicular access is proposed is currently the subject to an Agreement under Section 278 of the Highways Act 1980 and the developer is currently responsible for the works. They should, therefore, liaise with Orchard Properties (Chesterfield) Ltd regarding this matter.'*

5.8.4 *'It is recommended that the following conditions are included in any consent.*

- 1. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Bentham Road in accordance with the application drawings.*
- 2. The access shall not be taken into use until a 2m x 2m x 45° pedestrian intervisibility splay has been provided on the north western side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.*
- 3. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.*
- 4. The garage hereby permitted shall be kept available for the parking of motor vehicles at all times. 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 garage hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging 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.*
- 5. The design and access statement indicates the provision of a vertically retractable garage door in view of the length of the driveway in front of the garage (Minimum 5.5m). This shall be provided and maintained for the life of the development.*
- 6. There shall be no gates or other barriers on the access/driveway.'*

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

1. *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 via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.*
2. *The Highway Authority recommends that the first 5m 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 householder.*
3. *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.*
4. *The applicant should be aware that the area where the vehicular access is proposed is currently the subject of an Agreement under Section 278 of the Highways Act 1980 and the developer is still responsible for the works. The applicant should, therefore, liaise with Orchard Properties (Chesterfield) Ltd regarding this matter.*

5.8.6 DCC Highways were re-consulted on the revised scheme and stated 'comments as previous'.

5.8.7 The Planning Policy Team have also highlighted requirements for electric charging points on all new dwellings (in accordance with Policy CS20). 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 2 requires the applicant to install a pedestrian intervisibility splay of 2m x 2m x 45°. It is necessary to note that the pedestrian visibility is restricted by the existing detached double garage within the curtilage of No 2 Barbon Close. The proposed garage and associated driveway is situated 1m from the southern elevation of the detached garage providing further separation and a degree of visibility for pedestrians. DCC Highways raised no objections to the revised scheme including the revised location of the garage and associated parking. Conditions 1, 3, 4, 5 and 6 are considered to be appropriate and it is recommended that are attached to the decision. The recommended informatives are considered to be appropriate and should be attached to the decision. The proposal will provide off-street parking for one vehicle and attached garage which constitutes a parking space, this is considered to be acceptable.**

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 provided the following comments; *'I refer to the above planning application; the site is not shown to be at risk of flooding according to the Environment Agency flood maps. Any connections to the public sewerage system will require approval from Yorkshire Water. It is noted the developer intends to dispose of surface water via soakaways. Infiltration tests should be carried out and calculations provided in accordance with BRE Digest 365 to ensure no flooding for a 1 in 30 year rainfall event and no flooding of properties for a 1 in 100 year event. In accordance with building regulations, soakaways must not be located within 5 metres of a building. The last sentence regarding soakaways in the previous paragraph must be emphasised to the applicant and furthermore the Coal Authority may object to these soakaways being in close proximity to the mineshaft.'*

- 5.9.3 On the basis of the above comments it is considered necessary to include a condition requiring the submission of surface water drainage details prior to commencement of development.
- 5.9.4 Yorkshire Water were consulted on the proposal, no comments were received.
- 5.9.5 Based on the comments listed above, the proposal is considered to accord with policy CS7 of the Core Strategy.

5.10 Land Quality and Coal Mining Legacy

- 5.10.1 Core Strategy Policy CS8 states that *'The quality of the environment will be recognised at all levels of the planning and development process with the aim of protecting and enhancing environmental quality.'* 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 referral area and as such it was necessary to consult The Coal Authority on the proposal.
- 5.10.2 The application site is located within an area defined as 'red referral' and as such requires consultation with The Coal Authority and the submission of a Coal Mining Risk Assessment. The Coal Authority were consulted and initially objected to the proposal due concern regarding the submitted information contained within Coal Mining Risk Assessment and the presence of a mine shaft within the site.
- 5.10.3 On the 4th September The Coal Authority provided the following comments; *'The applicant has now provided a cross section through the mine entry capping details. I have sought technical advice on the information submitted from my colleague on this information and that previously submitted in respect of the shaft capping details. My colleague has noted that he is now satisfied with the information submitted and the remedial works proposed and how these will interrelate to the foundations for the development. He has noted however that the 45 degree zone should be defined from the base of the shaft cap and not the top as indicated, although it has no detrimental impacts in this case.'*
- 5.10.4 **'The Coal Authority Recommendation to the LPA;** *The Coal Authority concurs with the recommendations set out in the information submitted by Eastwood & Partners. The Coal Authority*

recommends that the LPA impose a Planning Condition to require these remedial works to be carried out on site prior to commencement of the development.

A condition should therefore require prior to the commencement of development

** Implementation of the remedial works,*

** Submission of a Verification Report, or similar document, confirming the detail of the remedial works which have been carried out on site.*

*The Coal Authority therefore **withdraws its objection** to the proposed development **subject to the imposition of a condition or conditions to secure the above.***

5.10.5 The proposal is therefore considered to accord with policy CS8 of the Core Strategy subject to a condition requiring the implementation of remedial works and verification report prior to commencement of development.

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)	131	131	£50 Medium Zone	317	288	£7,210

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)

$$\frac{131 \times 50 \times 317}{288} = \text{£}7,210$$

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by neighbour notification letters sent on 14.12.2017, deadline for responses 04.01.2018. On receipt of revised drawings neighbours were re-consulted on 03.07.2018, deadline for responses 24.07.2018.

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

6.3 **19 Bentham Road (24.07.2018)**

- The roadway serving the 5 properties to the rear of 19 Bentham Road is privately owned and maintained and as such the applicant will have no right to use this as an access or for delivery of plant and materials. We fail to see a viable alternative for delivery and storage of plant and materials when construction starts as the only access to the plot (without driving over the grass verge) would be via the new vehicular access. We think in practice delivery vehicles will either try to access the rear of the plot via the private road or either park or offload vehicles on the grass verge.
- The revised layout of the house now has the full gable end of the house closest to our lounge window which will cause loss of amenity to us.
- Exiting the new drive to turn down Bentham Road there will be no way of seeing pedestrians due to the proximity of the double garage at 2 Barbon Close.
- The position of the cap over the mineshaft on an earlier drawing (05.04.18) is shown encroaching onto our land although on the later drawing is shown within the applicants site. In either case we fail to see how the operation of capping the shaft can be done without encroaching as the later drawing indicates the cap at a depth in excess of 10 feet. Again as the capping will probably be done before the new vehicular access is in place we feel that vehicles and plant will try to gain entry to the site via the private road.

6.4 **Comments - The above comments have been noted.**

- **Potential issues with access on the adjacent private cul-de-sac is considered to be civil matter between the relevant parties and as such cannot be given any weight in the determination of this planning application.**

- The gable end of the dwelling will be situated closer to No 19, it is necessary to note that the main habitable room windows closet to the application site are at first and second floor level therefore potential impacts of overlooking and loss of privacy arising from the proposed french doors within the side elevation are considered to be minimal. It is also recommended that a condition be attached requiring the submission of boundary treatment details prior to installation. An appropriate boundary treatment along the southern boundary of the site is considered to screen the proposed french doors. The proposed dwelling is located approximately 12m from the north elevation of No 19, this is considered to be an acceptable separation distance and due to the orientation of the proposal with respect to No 19 potential adverse impacts of overshadowing are considered to be negligible.
- DCC highways were consulted on the proposal and raised no concerns regarding the revised location of the driveway with respect to the public footpath. No 2 Barbon Close already has a detached garage which opens directly onto the footpath.
- Concerns surrounding the location of the proposed mineshaft cap are also considered to be a civil matter between parties.

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 Plan Revision' Drawing number PES1807/Site Plan Revision (dated 25.06.2018)
- 'Elevations Revision' Drawing number PES1807/Elevs (dated 25.06.2018)
- 'Plans Revisions' Drawing number PES1807/Plans (dated 25.06.2018)
- Capping details for 2m diameter mine shaft, drawing number 38800/002 revision B (dated 14.08.2018), produced by Eastwood & Partners
- Mine shaft cap details
- Revised Layout - Supporting statement produced by Graham Bradford of Planning & Environment Studio (dated 26.06.2018)
- Exploratory hole location plan, drawing number 38800/001 revision B (dated 17.09.2015) produced by Eastwood & Partners
- Geotechnical and geo-environmental site investigations land adjacent to 19 Bentham Road, Newbold, Chesterfield for M, Hardy, reference 38800-01 produced by Eastwood & Partners (dated September 2015)
- Design and access statement

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.** No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details

Reason – To prevent the increased risk of flooding

- 06.** 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

07. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Bentham Road in accordance with the application drawings.

Reason – In the interests of highway safety.

08. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking of 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

09. The garage hereby permitted shall be kept available for the parking of motor vehicles at all times. 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 garage hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging 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

10. The Design and Access Statement indicated the provision of a vertically retractable garage door in view of the length of the driveway in front of the garage. This shall be provided and maintained in perpetuity.

Reason - There shall be no gates or other barriers on the access/driveway.

11. No gates or other barriers shall be erected across the driveway.

Reason – In the interests of highway safety.

12. 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.

13. Prior to the commencement of development remedial works to cap the mine shaft shall be implemented in accordance with Capping details for 2m diameter mine shaft, drawing number 38800/002 revision B (dated 14.08.2018), produced by Eastwood & Partners. On completion of the approved remedial works a verification report or similar document confirming the detail of the remedial works which have been carried out on site, shall be submitted to the Local Planning Authority for written approval.

Reason – in the interests of remediating identified coal mining legacy and public safety

14. 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

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.
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 Bentham Road shall be no steeper than 1:14 over its entire length.
09. Developers should be reminded that it is their duty to ensure that risks from soil contamination to the future occupants of the

development and neighbouring occupiers at neighbouring developments are minimised.

10. The developer should refer to the Council's 'Minimum Standards for Drainage' guidance in preparing any drainage proposals for submission /consideration