

ITEM 1

PROPOSED REMOVAL OF GARDEN WALL TO CREATE HARD STANDING DRIVEWAY AT 599 CHATSWORTH ROAD, CHESTERFIELD, S40 3JY, FOR MR STEVEN HUMPHREYS

Local Plan: Unallocated

Ward: West

Date: 23rd September 2019

1.0 Consultations

Ward members	No representations received
DCC Highways	Objections - see report
Neighbour letters and site notice	2 letters of representation received- see report

2.0 The Site

- 2.1 The property, the subject of the application is a semi-detached two storey property. The property is finished in white render with a red brick skirt which extends to the underside of the ground floor window. The windows are white upvc.
- 2.2 The property is located on Chatsworth Road which is a classified road and hence the reason the proposal requires planning consent. The property is set back approximately 7.7 metres from the public highway and this area is currently grassed with a shared access path to the rear of the property. The shared access path is shared with the adjoining property, no. 599a Chatsworth Road.
- 2.3 The application site is located in a mixed use area however residential use is most frequent in the area. Along the north east/ south west boundary, the property shares a boundary with the Chatsworth Road Medical Centre. To the north of the application site, the property shares a boundary with open land whilst to the west of the application site, the property shares a boundary with no. 599a Chatsworth Road. To the south of the application site,

and therefore on the opposite side of the public highway, the property faces nos. 648, 654, 654a, 650 and 652 Chatsworth Road.

3.0 The Proposal

- 3.1 The application proposes the removal of an existing stone garden wall which is situated at the boundary edge of the property, parallel to the public highway. The removal of the wall will facilitate the creation of hardstanding at the front of the property.
- 3.2 The plans submitted with the planning application indicate a section of the front wall measuring 4.6 metres to be removed and the drawings show that a section of the grassed area measuring 4.6 metres in width, with a depth of 7.7 metres will be replaced with tarmac or concrete to create off street parking for no. 1 vehicle.

4.0 Site History

- 4.1 CHE/1102/0710- Construction of vehicular access
Application withdrawn- 03/12/2002
- 4.2 CHE/0203/0075- Construction of one vehicle parking space and dropped kerb footpath crossing.
Refused- 07/03/2003
- 4.3 CHE/13/00395/FUL- Lower kerb stone- vehicle to front garden.
Application returned invalid to applicant.

5.0 Relevant site history in the surrounding area

- 5.1 599a Chatsworth Road
CHE/1189/0821 - Permission for construction of vehicular access at 599a Chatsworth Road. Conditional permission granted 13th February 1990.
- 5.2 656a Chatsworth Road
CHE/0591/0338 – Construction of vehicular access. Conditional permission granted 27th June 1991.

5.3 577 Chatsworth Road

CHE/15/00533/FUL - Removal of boundary wall to form 3.6 metre opening and erection of two new stone pillars and tarmac area for vehicle hardstanding. Conditional permission granted 18th November 2015.

6.0 **Other relevant information**

6.1 The following addresses have off street parking and vehicular access, but no planning history record relating to such:

- 601a Chatsworth Road- Vehicular access and off street parking. There is opportunity to enter and exit this site in forward gear.
- 656 Chatsworth Road- Vehicular access and off street parking.
- 654a Chatsworth Road- Vehicular access and off street parking.
- 579 Chatsworth Road- Vehicular access and off street parking.
- 575 Chatsworth Road- Vehicular access and off street parking.

6.2 A summary of the above information (Section 5 and 6) has been provided in visual format in a map attached to this report.

7.0 **Considerations**

7.1 **Planning Policy**

7.1.1 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).

7.2 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
- CS18 Design
- CS20 Influence the Demand for Travel

7.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)
- SPD "Successful Places" (adopted July 2013)

7.4 Key Issues

- Principle of development
- Design and appearance of the proposal
- Highways safety and parking provision

7.5 Principle of Development

7.5.1 The application site is positioned within a generally residential area wherein the principle of development, in particular works to a domestic property, are considered to be acceptable subject to policies CS2 and CS18, as well as the wider objectives of the NPPF.

7.6 Design and appearance of the proposal

7.6.1 Core Strategy Policy CS18 states that *"all development should respect the character, form and setting of the site and surrounding*

area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.”

- 7.6.2 The application proposes the removal of a garden wall to create a hard standing driveway and vehicular access via a dropped kerb.
- 7.6.3 Due to the public highway, known as Chatsworth Road, being a classified road, planning consent is required to create vehicular access to properties.
- 7.6.4 The submitted application form and drawings do not indicate any form of drainage to be included. Existing land levels at the application site suggest the proposed hardstanding would slope towards the public highway. This is the case at no. 599 Chatsworth Road where the hardstanding slopes towards the public highway.
- 7.6.5 Should consent be granted it would be necessary to apply a planning condition that requires a form of drainage to be included in the scheme. This would be located to prohibit surface water run-off from the hardstanding area from running onto the public highway.
- 7.6.6 It is considered that the introduction of a hardstanding parking area to the frontage of the property will not necessarily be appropriate in appearance terms in the context of the site.

7.7 Impact on Neighbouring Residential Amenity

- 7.7.1 Core Strategy Policy CS2 and CS18 states that all development will be expected to have an acceptable impact on the amenity of users and neighbours.
- 7.7.2 Along the north east/ south west boundary, the property shares a boundary with Chatsworth Road Medical Centre. To the north of the application site, the property shares a boundary with open land whilst to the west of the application site, the property shares a boundary with no. 599a Chatsworth Road. The application site is adjoined to this property. Finally, to the south of the application site, and therefore on the opposite side of the public highway, the property shares a boundary with nos. 648, 654, 654a, 650 and 652 Chatsworth Road.

Impact on boundary sharing neighbours

- 7.7.3 Due to the minor nature of the development proposed, it is not considered that the proposal would cause any significant injury to the residential amenity of the neighbours.
- 7.7.4 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. In addition, no letters of representation have been received. The proposal will therefore accord with the provisions of policy CS2 and CS18 of the Core Strategy.
- 7.7.4 It is therefore considered, providing a form of drainage is conditioned to be included in the proposed scheme, the proposal will accord with the design provisions of policy CS18 of the Core Strategy.

7.8 Highway Safety

- 7.8.1 DCC Highways have been consulted in relation to this application and raised the following comments;

“Highway Authority records indicate that a similar previous enquiry and application for an access and hardstanding at 599 Chatsworth Road have received objections due to substandard visibility from the site on to Chatsworth Road and the lack of space available for a vehicle to turn wholly within the site. Due to relaxations in visibility standards, acceptable exit visibility can now be achieved from the site access in both directions along Chatsworth Road. However, there remains insufficient space within the site for a vehicle to manoeuvre. As such, all vehicles will have to either reverse in to or out of the site on to a busy classified road, which carries a high proportion of HGVs, at a location which is very close to a signalised junction. The lack of on site turning space is not acceptable to the Highway Authority, therefore it is recommended that the application is refused on the following grounds:

No adequate provision is included in the application proposals for the manoeuvring of vehicles clear of the public highway, which would result in reversing on to or off of the public highway, a very

busy classified road, in close proximity to a signalised junction to the detriment of highway safety and the potential interference with the safe and efficient movement of traffic on Chatsworth Road.”

7.8.2 Officers comments:

There is currently no off street parking space available at this property. The comments received from the Highway Authority indicate that since previous applications, visibility standards have been relaxed and this now means that an appropriate exit visibility can now be achieved. The Highway Authority has no issues with a vehicle entering/exiting the application site in terms of visibility splays available. It is also the case that the pavement to the front of the property is wide such that the visibility splay requirements are contained within existing highways land.

The Highways Authority comments indicate the objection to this application is because of the limited opportunity for a vehicle to turn within the application site so that a vehicle can enter and leave the site in a forward motion.

Despite this objection however, there are numerous properties within the immediate surrounding area that do have vehicle access and these properties are identified in Section 5 and Section 6 above. It is noted that many of the properties identified in these sections do not have space within the curtilage to manoeuvre a vehicle so that it can enter and leave the site in a forward motion.

7.8.3 599a Chatsworth Road

Attention is particularly drawn to no. 599a Chatsworth Road, the adjoining property. Consent was granted in 1990 for the vehicle access and which was supported by the Highway Authority. The Highways Authority noted that there were so many similar precedents in the locality that the proposal was to be acceptable from a Highways perspective.

Much like the current proposal, the hardstanding at no. 599a Chatsworth Road does not offer opportunity to enter and exit the site in a forward motion and this has been accepted by the Highway Authority. This entrance is immediately adjacent to the

entrance being considered in this application, and therefore also in close proximity to the signalised junction.

7.8.4 577 Chatsworth Road

This property has an off street parking space and dropped vehicular crossing and is highlighted in Section 5 above. This access was granted planning consent in November 2015 by planning committee. Similarly, this scheme did not have enough space within the front curtilage of the property to enter and exit the site in a forward motion.

When the Highways Authority was consulted, the following comments were received:

“Chatsworth Road a very busy principal route (A619) with on-street parking restrictions on the adjacent highway. There is a signalised junction to the west. The proposals are to create a parking space to the front of the property. Whilst it is unlikely that an access meeting current design criteria can be created due to the limited site frontage there is a wide fronting footway and it is noted that there are several similar accesses to properties in the vicinity.

Exit/pedestrian visibility should be maximised by keeping the front boundary wall below 1m in height and any vegetation restricted to 600mm.

On site turning is recommended on classified roads (Chatsworth Road is an A class road), to enable vehicles to enter and exit the site in a forward gear, although it is unlikely this could be cited as a defensible reason for refusal if all other issues were otherwise acceptable.

In this instance the Highway Authority is not aware of any existing highway safety issues that would justify a reason for refusal that could be substantiated at appeal.”

Despite the lack of space available within the site frontage, the Highways Authority considered that providing all other matters could be resolved, a refusal would not be defensible at an appeal. Notwithstanding the Highway Authority view officers proposed that

the scheme be refused on highway safety grounds however planning committee voted in support of the scheme which was ultimately granted planning permission.

7.8.5 Summary comments

The Highways Authority has granted consent for dropped kerbs at numerous properties along Chatsworth Road. Two of these properties have been discussed in this report above highlighting how this issue has been considered.

On balance it is clear that the only issue relates to the inability to provide a turning space on the site however given the availability of appropriate visibility splays, the presence of numerous other vehicle accesses in the vicinity with no turning space which have been accepted by planning permission or no action from the Highway Authority, it is considered that a refusal on highway safety grounds could not be substantiated. The alternative is for the occupants of the property to park remotely on the Chatsworth Road or Storrs Road frontage which is also not ideal in highway safety terms.

8.0 Representations

- 8.1 The application has been publicised by neighbour notification letters to boundary sharing neighbours, which were posted on 14th August 2019; deadline for responses being 4th September 2019. A site notice was also displayed at the application site on 2nd September 2019, deadline for responses being 23rd September 2019.

2 letters of representation has been received as a result.

One from a neighbour however no address is indicated. The representation reads;

“Not at all suitable, too near to traffic lights. The person next door has a job to back out into the road. I have two disabled people living next door but one and they are not allowed to park their car at the front of their property i.e. drive.”

8.2 Officer comment :

The issue of highway safety is considered in the report above.

8.3 The second letter, which is written from the occupiers of 650 Chatsworth Road which reads;

“My husband and I wish to object to the above address request for wall removal and hardstanding (presumably for parking a car). Seven years ago (approx.) we applied for a dropped kerb in order to park our car at the front of our house. This was refused at the time. Both myself and my husband are classed disabled and are holders of a blue badge, and as such are able to park on the car park on the end of Storrs Road if a space is available (there are no disabled bays).”

8.4 Officer comment:

There is no record of a planning application at the address mentioned. The site being considered in this application indicates to provide an off street parking space approximately 4.6 metres x 7.7 metres in size. Every application site is considered on its own individual merits.

9.0 Human Rights Act 1998

9.1 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

9.2 It is considered that the recommendation is objective and in accordance with clearly established law noted above.

- 9.3 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.

10.0 Statement of positive and proactive working with the applicant

- 10.1 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 National Planning Policy Framework (NPPF).
- 10.2 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.
- 10.3 The applicant/ agent and any objector will be provided with a copy of this report informing them of the application considerations and recommendation/ conclusion.

11.0 Conclusion

- 11.1 It is considered that the vehicle access would not be so damaging to highway safety that planning permission should be refused. Therefore, the proposal is not considered contrary to the provisions of policies CS2, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy, the wider National Planning Policy Framework.

12.0 Recommendation

- 12.1 It is therefore recommended that the application be **GRANTED** subject to the following:

Conditions

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

Reason- *This condition is in accordance with Section 51 of the Planning and Compensation Act 2004.*

2. The development hereby approved shall only be carried out in full accordance with the approved plan with the exception of any approved non material amendment.

Reason- *In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for Planning Permission" by CLG November 2009.*

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

Reason- *In the interests of highway safety and in accordance with CS20.*

4. No development hereby approved by this permission shall be commenced until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The hardstanding shall not be brought in to use until the drainage is completed in accordance with the details agreed and will remain in place for the lifetime of the development.

Reason- *In the interests of highway safety and in accordance with CS20.*

Notes

1. 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.