

Case Officer: E Casper
Report Date: 10.09.2019

Application No: CHE/19/00437/FUL
Committee Date: 23.09.2019

ITEM 2

PROPOSED CHANGE OF USE OF PUBLIC HOUSE INTO 4 ONE BEDROOMED APARTMENTS (REVISED PLANS RECEIVED 22.08.2019) AT DEVONSHIRE HOTEL, 17 OCCUPATION ROAD, NEWBOLD, DERBYSHIRE, S41 8TH

Local Plan: Unallocated
Ward: Dunston
Plot No: 2/5196

1.0 CONSULTATIONS

Derbyshire County Council Highways	Comments received – see report
Strategy/Forward Planning	Comments received – see report
Environmental Health	No Objection – see report
Design Services Drainage	Comments received – see report
Yorkshire Water	No comments received
Derbyshire Constabulary	No comments to make – see report
Cycle Campaign	Comments received – see report
Neighbours and Site Notice	One letter of objection and one letter of support received – see report
Ward Members	No representations received

2.0 THE SITE

- 2.1 The site subject if this application is the former Devonshire Public House/Hotel. The site comprises of a two storey, semi-detached building, orientated towards Occupation Road highway. The existing building is formed of a hipped roof and is faced in brick. The site has some interesting architectural features to the principle elevation, including curved topped windows at ground floor and a small feature window (see photographs). The site is served by a yard to the rear with access gates taken from Devonshire Villas, a small private road

which forms the southern boundary of the site leading to residential dwellings to the east of the application site.



Principle (west) elevation of the site, taken from Occupation Road



Rear (east) elevation and south (side) elevation of the site, taken from Devonshire Villas



Aerial image of application site



Access to the rear yard taken from Devonshire Villas facing north west

2.2

The building appears to have been vacant for a number of years. The premises licence register held by Chesterfield Borough Council shows that in 2011 the premises licence was cancelled and has not been renewed since (application licence reference PL/VF/0289)

- 2.3 The surrounding streetscene is largely residential in character, the site directly adjoins a former commercial premise to the north (No 15 Occupation Road) and a small convenience store is situated to the north west of the site (Nos 2 and 4 Occupation Road). Surrounding residential dwellings are mixed in character, formed of traditional terraces, detached bungalows and semi-detached dwellings.

3.0 **APPLICATION SITE PLANNING HISTORY**

- 3.1 CHE/0996/0507 - Single storey flat roof extension for toilet – **CONDITIONAL PERMISSION (18.10.1996)**

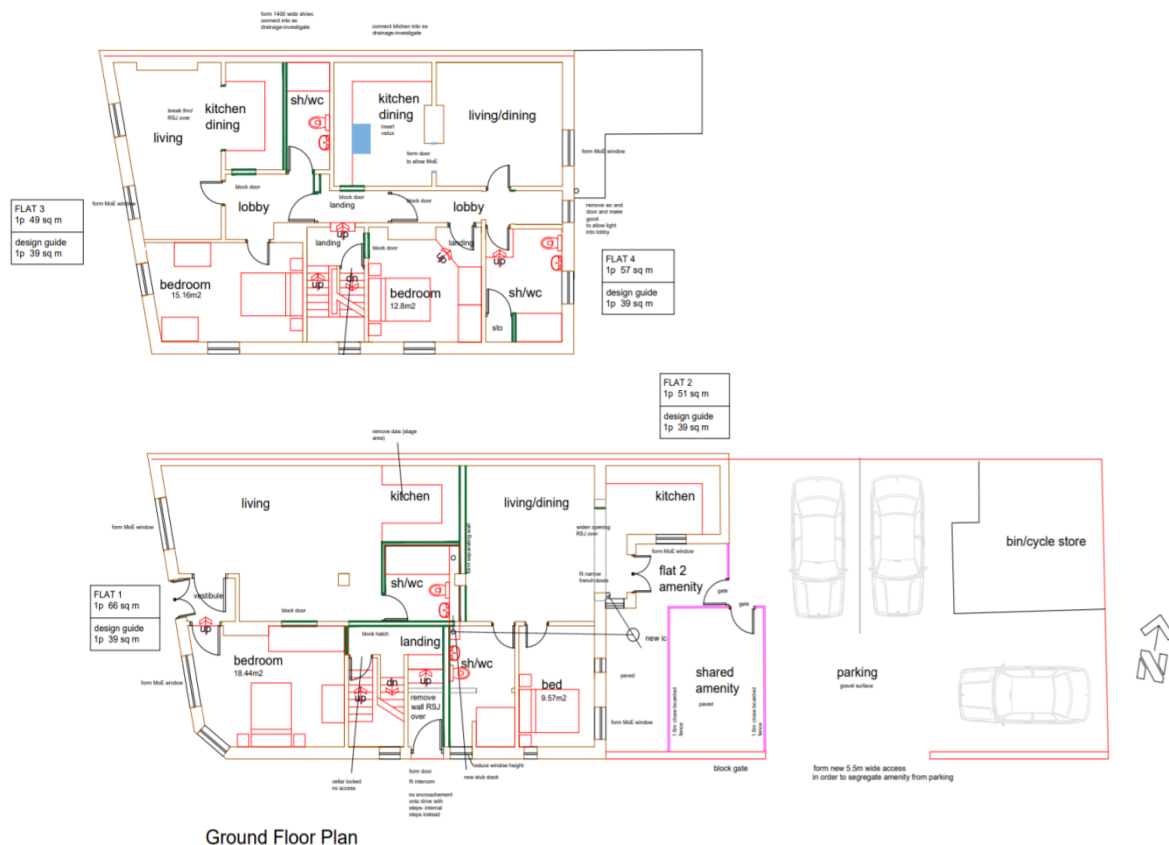
4.0 **THE PROPOSAL**

- 4.1 The application proposes the conversion of the building into four, one bedroom apartments.
- **Apartment/Flat 1** – ground floor flat accessed from the principle elevation with separate bedroom, bathroom and open plan living/kitchen facilities. Proposed overall floorspace 66sqm
 - **Apartment/Flat 2** – ground floor flat accessed from the rear courtyard with separate bedroom, bathroom and open plan living/kitchen facilities. An area of private amenity space for flat 2 is shown to the rear with french doors. Proposed overall floorspace 51 sqm.
 - **Apartment/Flat 3** – first floor flat accessed from side (south) elevation by external doorway with intercom and via a stairwell serving both first floor flats. The flat has separate bedroom, bathroom and open plan living/kitchen facilities. Proposed overall floorspace 49 sqm.
 - **Apartment/Flat 4** - first floor flat accessed from side (south) elevation by external doorway with intercom and via a stairwell serving both first floor flats. The flat has separate bedroom, bathroom and largely open plan living/kitchen facilities. Proposed overall floorspace 57 sqm.
- 4.2 The application seeks to utilise existing window openings with the exception of a roof light within the northern roof plane, replacing an access door serving flat 2 with french doors and altering the location

of the access door for the first floor flats and the adjacent window at ground floor level within the south (side) elevation.

4.3 Shared private amenity space for all flats is provided within the rear courtyard.

4.4 The application seeks to provide 3 off-street parking spaces within the rear yard and a separate bin/cycle store is shown within an existing outbuilding adjacent to the rear (eastern) boundary.



4.5 The application submission is supported by the following plans/documents;

- Planning Statement (dated 12.07.2019)
- G A Plans as Existing, drawing Number AH/DPH/01 (dated 11.07.2019)
- G A Plans as Proposed, drawing Number AH/DPH/02 (dated 11.07.2019)
- Community Infrastructure Levy – Determining whether a Development may be CIL Liable Planning Application Additional Information Requirement form
- Community Infrastructure Levy – Form 2: Claiming Exemption or Relief

5.0 CONSIDERATIONS

5.1 Planning Policy

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
- CS4 Infrastructure Delivery
- CS7 Management of the Water Cycle
- CS11 Range of Housing
- CS17 Social Infrastructure
- CS18 Design
- CS20 Influencing the Demand for Travel

Emerging Local Plan (2018 – 2033)

- LP11 Social Infrastructure

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)
- SPD 'Successful Places' (adopted July 2013)
- Minimum technical space standards (not formally adopted)

5.4 Key Issues

- Principle of development
- Design and Appearance – including Impact on the Amenity of Future Occupiers and Neighbouring Impact
- Highways safety, parking provision and cycle storage;

- Flood risk and drainage;
- Community Infrastructure Levy (CIL);

5.5 Principle of development;

- 5.5.1 The site is situated within the built settlement of Newbold, in an area which is largely residential in nature.
- 5.5.2 Having regard to the nature of the application policies CS1, CS2, CS3, CS4, CS7, CS11, CS17, CS18 and CS20 of the Core Strategy 2013 – 2031 and the National Planning Policy Framework (NPPF) apply.
- 5.5.3 In addition the Councils Supplementary Planning Document on Housing Layout and Design ‘Successful Places’ is also a material consideration.

Principle of development

- 5.5.4 The application proposes the conversion of a former Public House into 4 one bedroom apartments. The site is within walking and cycling distance of Whittington Moor District Centre and therefore accords with the spatial strategy set out in Policy CS1 which focuses new housing development close to centres and regenerations areas.
- 5.5.5 The **Strategy/Forward Planning team** provided further comments on the potential loss of social infrastructure detailed in policy CS17;
- 5.5.6 *‘The change of use would result in a loss of social infrastructure and as such the principle of development would only be accepted should the proposal accord with the tests set out within policy **CS17**.*

Loss of Social Infrastructure

- 5.5.7 *Policy **CS17** states that the loss of social infrastructure can only be accepted if: a) There is an equivalent facility available in the locality or an equally accessible one is made available prior to the commencement of redevelopment to serve the same need; or b) It can be demonstrated through a viability assessment that the current use is economically unviable and all reasonable efforts have been made to let or sell the unit for the current use over a 12 month period.*

- 5.5.8 *There are a number of alternative facilities within the local area such as The Red Lion and other public houses within the Whittington Moor District Centre which would satisfy criterion a). No information has been provided in respect to criterion b).*
- 5.5.9 *Submission Local Plan policy **LP11** (which also relates to Social Infrastructure) may now be afforded some weight in decision making as no objections to the policy were received during the Pre-Submission Local Plan Consultation. The tests presented are identical however Policy **LP11** requires a consideration of both criteria a and b.*
- 5.5.10 *The Premises Licence Register shows that the pub has remained vacant since December 2011. No details of any attempts to market the property for its existing use have been provided, however marketing advertisements from two separate agents are visible on Street View imagery from June 2015. One of these signs clearly details a ‘pub opportunity.’ Despite the absence of detailed marketing evidence, the limited weight of **LP11** combined with the benefits of revitalising a disused building and improving its immediate setting should be taken into account.*
- 5.5.10 On the basis of the observations listed above the ‘principle’ of the development is considered to be appropriate given the presence of existing social infrastructure within the vicinity including the Cricketers Arms on Stand Road and numerous public houses on Sheffield Road at Whittington Moor. Further consideration of other material considerations and relevant planning policy will be set out in the following sections.

5.6 Design and Appearance – including Impact on the Amenity of Future Occupiers and Neighbouring Impact

- 5.6.1 The proposal is considered to accord with Core Strategy Policy CS11 which seeks to provide a range of housing choice which responds to the needs of the community. The proposed floorspace of each flat exceeds the recommendations contained within the minimum technical spaces standards which recommend a minimum of 39sqm of accommodation for a 1 bedroom, 1 person flat.
- 5.6.2 The proposed development is considered to provide an acceptable standard of accommodation for future occupants with regards to amenity and outlook. The scheme includes shared outdoor amenity

space, a bin store and private amenity space for one of the units. Overall the proposal accords with the requirements of policies CS2 and CS18 of the Core Strategy and the adopted Successful Places SPD.

- 5.6.3 It is acknowledged that a relatively small separation distance of approximately 9m exists between the side (south) elevation and the row of terraced properties situated to south of the application site, potentially leading to issues of overlooking at first floor level. It is therefore necessary to consider the previous and historic use of the site as a public house. The application is supported by existing plans which shows living accommodation at first floor level. It is acknowledged that the pub has been vacant for a number of years and the windows are now boarded up. Taking into account the previous use of the site, it is not considered reasonable to require the first floor windows to be installed with obscure glazing.
- 5.6.4 The **Environmental Health Officer** was consulted on the proposal and raised no objections to the scheme with regards to land contamination and noise issues. It is also necessary to reflect the previous use as a public house which may have resulted in general noise within the area. It is recommended that a condition be imposed restricting the hours of work on site to preserve the amenity of the surrounding occupiers.
- 5.6.5 The **Derbyshire Constabulary Designing Out Crime Officer** was consulted on the proposal and responded to say he had no comments to make regarding the proposal.
- 5.6.6 Notwithstanding the above, given the proximity of the development proposals to existing residential neighbours it would be appropriate to control construction hours of any new development in the interests of neighbouring amenity.
- 5.6.7 Having consideration for the observations above and taking into account the historic use of the site, the proposal is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. The proposal will therefore accord with the provisions of policies CS2, CS11 and CS18 of the Core Strategy and the adopted Successful Places SPD.

5.7 Highways Safety, Parking Provision and Cycle Storage

- 5.7.1 The Local Highways Authority **Derbyshire County Council (DCC) Highways** Team were consulted on the proposal and they provided the following comments;
- 5.7.2 *'Occupation Road is one way at this point with traffic approaching from the north westerly direction. The proposed parking would be served off what is indicated as a shared drive although this is not shown as being included in the area the subject of the application or within the ownership/control of the applicant. You may, therefore, wish to consider whether access would be available.*
- 5.7.3 *In addition, however, although this would not be an ideal situation as there is a fair amount of existing on-street parking the shared drive is of restricted width and in view of the limited parking provision and small scale development it may be preferable the development be provided without off-street parking provision. Presumably any future occupants will be aware of the lack of parking provision.*
- 5.7.4 *It is recommended that the following conditions are included in any consent.*
1. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.
- 5.7.5 *In addition, the following notes shall be included for the benefit of the applicant.*
1. 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.
- 5.7.6 The initial submission incorporated off-street parking for three vehicles within the rear yard of the site and secure cycle storage.

On receipt of the comments from DCC the Applicant/Agent suggested removing the car parking and creating a 'car-free' scheme. The proposal has been reviewed and it is considered that off-street car parking should be provided where possible as this will reduce the number of cars parked on the public highway where parking opportunities are generally at a premium. It is acknowledged that the proposal will result in an under provision overall, however the provision of 3 spaces is considered to be an acceptable solution. The Agent also provided an amended drawing showing a site storage compound as requested by DCC highways.

5.7.7 The site is located within walking distance of Whittington Moor District Centre which has access to public transport links in and out of Chesterfield. The scheme also incorporates provision for secure cycle storage. The **Cycle Campaign** was consulted on the proposal and they raised no objections to the scheme, due to the presence of cycle storage facilities. It is recommended that a condition be imposed requiring the cycle storage to be provided prior to the occupation of the proposed dwellings and retained free from obstruction for the life of the development.

5.7.8 Subject to a condition requiring the car parking spaces detailed on the submitted plan be provided prior to the occupation of the development and retained free from impediment to the designated use thereafter the proposal is considered to accord with the requirements of policy CS20 of the core strategy. The proposed number of car parking space is less than the recommended maximum detailed within Appendix G of the Core Strategy and it is therefore considered necessary to reflect on the proximity of the site to the district centre and alternative methods of sustainable transport such as bus and bicycle. Electric Vehicle charging points should also be provided as part of the scheme. It is also recommended that a condition be imposed requiring the applicant to comply with the site storage compound as detailed on the submitted plan.

5.8 **Flood Risk and Drainage**

5.8.1 The application submission indicates the developers intention to connect to existing mains drainage. Consideration is therefore required of the provisions of policy CS7 of the Core Strategy.

- 5.8.2 The application has been reviewed by the Council's **Design Services Drainage team** and the following comments were provided;
- 5.8.3 *'The site is not shown to be at risk of flooding, according to the Environment Agency Flood Maps. Any amendments to existing drainage on site may require building control approval. Any connections to the public sewerage system will require prior approval from Yorkshire Water.'*
- 5.8.4 **Yorkshire Water** was consulted on the proposal and no comments were received.
- 5.8.5 The application site consists of an existing building which previously operated as a public house with living accommodation at first floor level. The proposal development is not considered to be substantially different to existing arrangements with regards to drainage and flood risk. It is recommended that details of proposed hardsurfacing and drainage measures be provided prior to the occupation of the development to accord with the requirements of policy CS7.

5.9 **Community Infrastructure Levy (CIL)**

- 5.9.1 Having regard to the nature of the application proposals the development comprises the creation of 4 no. new dwellings the development is therefore CIL Liable. The site falls within the medium zone of the Council's CIL charging schedule therefore a charge of £50 per square metre of gross internal floorspace can be applied. If the units were to be made available for social, affordable or intermediate rent they would be likely to be able to benefit from relief from Community Infrastructure Levy, but this **must be applied for prior to commencement**. If not applied for before commencement, the units would be subject to the full CIL liability. Existing floorspace can be deducted where conditions about existing lawful use are met.
- 5.9.2 The CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

		A	B	C	D	E
Proposed Floorspace	Less Existing	Net Area	CIL Rate	Index (permis	Index (charging	CIL Charge

(GIA in Sq.m)	(Demolition or change of use) (GIA in Sq.m)	(GIA in Sq.m)		sion)	schedule)	
254	254 (subject to lawful use period)	0	£50 (Medium Zone)	307	288	£12700 if unable to demonstrate lawful use period

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

- 5.9.3 In respect of the above calculation the existing floorspace of the public house can be discounted from the CIL liability, if the floorspace remains in a lawful use for a period of no less than 6 months in the last 3 years (from the date the development becomes CIL liable).

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters sent on 25.07.2019, deadline for responses 15.08.2019. A site notice was also displayed on 08.08.2019, deadline for responses 29.08.2019. One letter of objection and one letter of support has been received as a result, main points summarised below;

6.2 Objection – resident of Occupation Road

- *Wider residents on Occupation Road and St Johns Road not notified*
- *Impact on house prices*
- *Anti-social behaviour, existing issues in area*
- *Parking issues - difficult to use road with cars parked on both sides, where will the occupants park and how will emergency services get access?*

- 6.3 **Officer comments – The above comments have been noted. See paragraph 6.1 for consultation process. Impact on house prices is a ‘non-material’ planning consideration and therefore cannot be given any weight in the determination of this application. There is no reason to suggest that the conversion of an unused building to residential flats will result in any ASB issues and the committee will be aware that there is no control**

on the individuals who may occupy the flats. This is not a planning issue in this case. See section 5.7 for consideration of parking and the scheme incorporates 3 off-street parking spaces reducing the need for on-street parking.

- 6.4 Support - Local Resident, address unknown (12.08.2019)
- *Agree with planning statement and support conversion of the vacant/derelict former public house*
 - *The proposed application should stop the building falling into further disrepair by bringing it back into use and removing a hotspot for vandalism / antisocial behaviour.*

6.5 Officer comments – The above comments have been noted

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.

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. The applicant took advantage of the opportunity to discuss matters at a pre application stage.

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 Having consideration for the observations above and taking into account the historic use of the site, the proposal is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. On the basis of the submitted documents, the proposal will provide an acceptable standard of accommodation with off-street parking provision, cycle storage, bin storage and external amenity space therefore accord with the provisions of policies CS1, CS2, CS3, CS4, CS7, CS11, CS17, CS18 and CS20 of the Core Strategy and the adopted Successful Places SPD

10.0 **RECOMMENDATION**

10.1 That a CIL Liability notice be issued as per section 5.9 above.

10.2 That the application be **GRANTED** subject to the following conditions / notes:

Conditions

1. 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 Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment.
 - G A Plans as Proposed, drawing Number AH/DPH/02 (dated 11.07.2019)

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.

3. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with drawing AH/DPH/02 Revision A Block Plan (only). Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason – In the interests of highway safety.

4. The site the subject of the application shall not be occupied until space has been provided within the application site in accordance with the application drawing G A Plans as Proposed, drawing Number AH/DPH/02 (dated 11.07.2019) for the parking of 3 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.

5. The cycle storage shall be provided prior to the residential occupation of the site and maintained throughout the life of the development free from any impediment to its designated use.

Reason – To ensure cycle storage is provided and retained as part of the development.

6. A residential charging point shall be provided for the additional dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The

electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

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

7. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the rear courtyard area shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; surface materials, drainage scheme, means of enclosure; and structures (e.g. furniture, refuse or other storage units, lighting etc.). These works shall be carried out as approved prior to the first occupation of the building.

Reason - *The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.*

8. 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.*

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.
2. 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.

3. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
4. Attention is drawn to the Council's 'Minimum Standards for Drainage'.
5. Please note that this permission is issued together with a separate Community Infrastructure Levy (CIL) Liability Notice, to which the developer should also refer. The developer should note the terms of the CIL Liability which is triggered upon commencement of development.

Further information can be found on the Council's website using the following web address www.chesterfield.gov.uk/planning-and-building-control/planning-services/community-infrastructure-levy.aspx or alternatively please contact the Infrastructure Planning Officer (Rick Long) on 01246 345792.