

ITEM 2

Change of use from TV repair shop to auto garage and single storey rear extension and covered area at The Old Station, Station Road, Old Whittington, Chesterfield for Mr B Lalli

Local Plan: Economic Growth
Ward: Whittington

Committee Date: 03/07/23

1.0 CONSULTATION RESPONSES

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| Ward Members: | 1 joint comment received from 2 councillors, no objection. |
| Highways Authority: | No objection |
| Design Services: | No objection, subject to condition |
| Coal Authority: | Material Consideration |
| Network Rail: | Not supportive of original scheme and do not support any parking in front of railway access points. |
| Strategic planning: | No objections subject to further information regarding highway safety, flooding, noise insulation and restriction of pd rights. |
| Environmental Health: | Additional information was sought in regard to noise insulation. |
| Representations: | 5 comments received from 4 people. The comments raised are: <ul style="list-style-type: none">- insufficient parking and manoeuvring on site,- highway safety issues on busy road and junctions, both entering and leaving the site,- potential for noise to adjoining residents from power tools and compressors, |

- the potential for vehicles being parked off site in the surrounding area which would impact customer and staff parking for surrounding businesses,
- blocking of access for railway maintenance,
- pedestrian safety

2.0 THE SITE

- 2.1 The application site is a single storey red brick building on the eastern side of Station Road. It is adjacent to the entrance to Brimington Road North and it includes a hard surfaced parking area to the front. To the north-west of the site is an operational railway access point for Network Rail. The site includes an open area to the south of the building which is partly enclosed by brick walling. To the east of the site there is a building containing flats and its garden to the rear. To the east of this there are two retail units including JE James Cycles and an Electronic Cigarette retailer, with a parking area for staff and customers in front of this.
- 2.2 The site was previously used as a tv repair shop and it has an existing double door entrance to the frontage and some closed up windows.
- 2.3 There is some lack of clarity in the land owned/managed by the applicant and highway authority, as there is a pavement adjoining the road to the front, and behind this there are several highway signs, utility boxes and lampposts; this area appears to have been maintained by the highway authority but is not officially in highway maintainable land. There is a bus stop to the front of the site and a pedestrian/cycle entrance from the underpass from the Whittington Moor roundabout. The site is in flood zone 2.

2.4 Google image of the site:



3.0 SITE HISTORY

3.1 CHE/23/00026/ADV - Installation of 1 x 48 sheet freestanding LED illuminated advertising display unit – Refused – 24/05/23

4.0 THE PROPOSAL

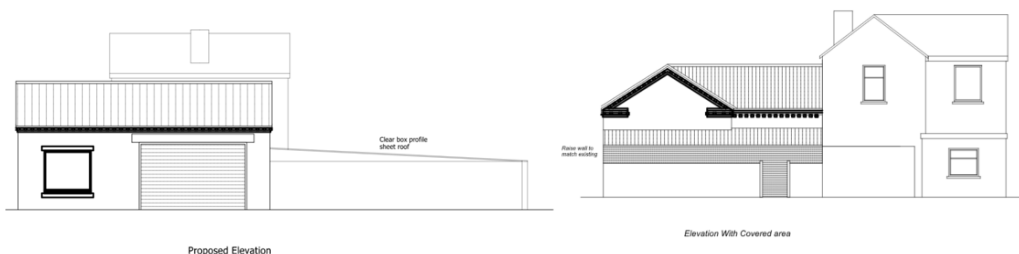
4.1 Planning permission is sought for a change of use of the building from a TV repair shop to an auto garage with a single storey rear extension and a covered area to the southern side, as well as some minor alterations to the front of the building.

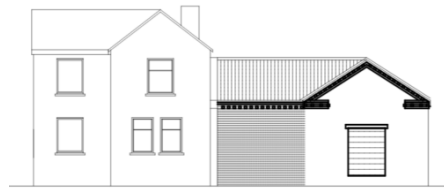
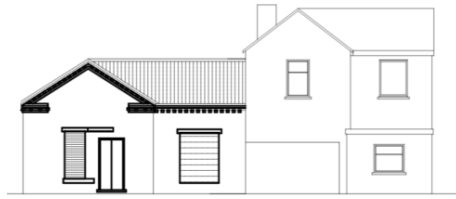
4.2 The single storey rear extension would be an in-fill section to the north-east of the existing building, with a 5m width and a 3.4m depth. It would have a pitched roof adjoining the existing building, matching the ridge and eaves height. This would use facing brick and would slate to the roof.

4.3 The side yard area would be covered with lightweight clear profiled sheeting and the existing side wall would be raised in height from 1.3m to 2m, with a gate filled in as well. The profiled sheeting would be a lean-to construction. The wall materials are proposed to be facing brick, but it is not specified if this would be matching brick.

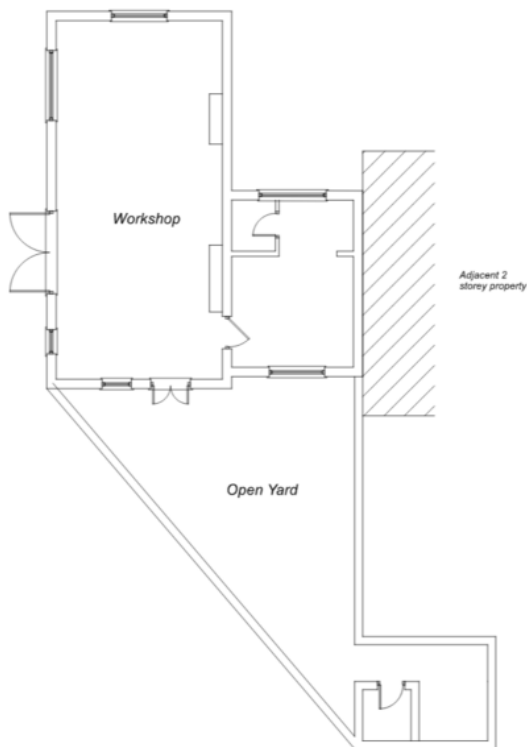
4.4 The front elevation would be altered with the creation of a large opening that would include the existing entrance and side window. This would be 2.8m high and 4.5m wide, with a lintel above this. The proposed door type has not been confirmed.

Proposed plans:

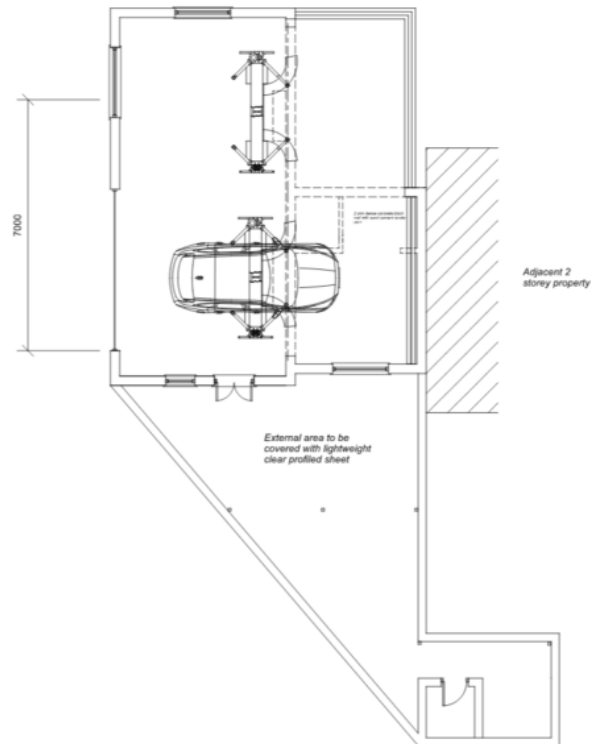




Floor Plans:



Existing Floor Plan



Proposed Floor Plan

- 4.5 The works also include noise insulation to the rear of the building, although the exact details yet to be confirmed.
- 4.6 It is proposed to have 3 parking spaces to the front, space for 2 vehicles internally and a no parking zone in front of the gates for the railway access point.



4.7 It is proposed to have no more than 2 members of staff on site at any one time, with no more than 3 customers per day and opening hours of 8am until 6pm Monday to Friday and 8am until 1pm on Saturdays. This scheme does not include any details of advertisements for the business which is likely to be considered under a separate application for advertisement consent.

5.0 **PLANNING POLICY**

5.1 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 Chesterfield Borough Local Plan 2018 – 2035.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

| | |
|-------|---|
| CLP1 | Spatial Strategy |
| CLP2 | Principles for Location of Development (Strategic Policy) |
| CLP6 | Economic Growth |
| CLP13 | Managing the Water Cycle |
| CLP14 | A Healthy Environment |
| CLP16 | Biodiversity, Geodiversity and the Ecological Network |
| CLP20 | Design |
| CLP22 | Influencing the Demand for Travel |

5.3 **National Planning Policy Framework (2020)**

- Chapter 2: Achieving sustainable development
- Chapter 6: Building a strong, competitive economy
- Chapter 8: Promoting healthy and safe communities

- Chapter 12: Achieving well-designed places
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 15: Conserving and enhancing the natural environment

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 Policy CLP1 sets out the spatial strategy for the Borough in seeking to concentrate new development within walking distance of a key range of services. The application site is a sustainably located site in accordance with Policy CLP1.

6.1.2 The application site is identified as being within an Employment Area under Policy CLP6 as identified on the Policies Map.

Policy CLP6 Economic Growth notes:

“Within Established Business Areas (as shown on the Policies Map) other business and industrial uses, not falling within the B1, B2 or B8 classes, and ‘B’ class uses outside of the criteria set out above will be considered based upon the locational criteria set out in policy CLP2, the suitability of the use for the location and the employment generation of the proposed use when compared to the existing or previous use, and will normally be permitted where they would otherwise not have a significant adverse impact upon the surrounding area.”

The proposed use is therefore acceptable in principle in this location.

6.1.3 The applicant has applied for a B1 former business use class which is now consumed within Class E. However, the inclusion in Class E of ‘any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit’ (giii) is not considered to apply to a car repair garage and therefore the use is considered to be a B2 use. The exact nature of the business will impact whether its use leads to significant levels of noise, vibration, smell, fumes and smoke to the surrounding area. These matters are considered under the amenity section of the report below.

6.1.4 In principle it is considered that the scheme is acceptable in locational terms in relation to policies CLP1 and CLP6.

6.2 Design and Appearance of the Proposal

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context 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.
- 6.2.2 The existing building whilst not on the local list appears to have some finer brick detailing matching that of the adjoining dwelling, and may have been connected with the adjacent railway use. Therefore, the re-use and retention of this building is welcomed.
- 6.2.3 The rear extension will not be highly visible from the streetscene; it is designed to be in-keeping with the character of the existing building. The enlargement of the front entrance will introduce a large door to the front elevation, with the door design and junction with the brick detailing needing to be conditioned for further assessment. The creation of the larger door will alter the front elevation but subject to detailing, to be secured via condition the scheme is considered to retain the overall character of the building.
- 6.2.3 The submitted drawings show a proposed covered area to the side of the premises. In recent times this area has fallen into dis-repair with part of the wall falling down and a container positioned in this space. The intention is to raise the wall and create a roof with clear plastic profiling sheeting to a shallow pitch. This site is very visually prominent given the siting on a main route into the town. Given the roofing material and prominence of the wall, further details are required via condition to ensure an appropriate finished development.
- 6.2.4. The application is therefore considered to comply with the design objectives of policy CLP20 of the Chesterfield Borough Local Plan and Chapter 12 of the revised NPPF.

6.3 Residential Amenity

- 6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.
- 6.3.2 The scheme is adjacent to residential units to the east and the proposal has the potential to lead to a negative impact to residents in regard noise and vibration. Concerns have been raised by the neighbouring residents in this regard.

- 6.3.3 To address this the agent for the scheme has submitted details for the noise insulation. Environmental Health has been consulted on these details, and they do not object to the proposal. It is therefore considered that subject to a condition to secure the insulation measures proposed that the change of use is acceptable in terms of amenity impacts in accordance with policy CLP14.
- 6.3.5 In regards overshadowing, overlooking and loss of light the rear extension is not considered to lead to a significant impact to the neighbouring residents' garden. Therefore the extension is considered to meet the requirements of Policy CLP14.

6.4 Highway Safety

- 6.4.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety. The Highway Authority was consulted, and requested revised drawings/information about the proposal on site given the constraints to parking and manoeuvrability within the site. The Highway Authority also used their own internal parking standards to quantify how much parking was required on site; this is for 1 space per 15 sqm for customers, 1 space per 30 sqm for staff and 1 space on site for tow vehicles. As the site would be 75 sqm the proposed standards would require 5 spaces for customers, 2.5 space for staff and 1 larger space for a tow vehicle, which is 8.5-9 spaces.
- 6.4.2 A parking plan has been provided for the site, with 2 parking spaces to the north of the yard, 1 space to the front of the building and space for 2 vehicles internally, as well as a no-parking zone in front of the railway access gates, manoeuvring space has been demonstrated. Staff numbers have been stated as a maximum of 2 and customer numbers as no more 3 per day. Customer and staff numbers could potentially be limited to control the throughflow and demand on site. One of the comments from a local landowner has stated that they are apprehensive about the proposed use utilising parking in front of JE James, as this is unrestricted but used by customers and staff of JE James and the neighbouring retail units. The proposed 5 parking spaces (external and internal) could be utilised by staff and customers, which would ensure that vehicles related to the business do not spill out into the surrounding streets. It is also worth noting that there are some parking restrictions on the highway in this area as well as on street areas where on street parking is feasible for example; to park on Brimington Road North.

6.4.3 Details have been provided regarding the parking proposals and customer and staff numbers. The Highway Authority has commented on revised drawings for the parking layout on site, including the tracking information, and on the basis of this they no longer object to the scheme. Conditions have been recommended and are included in the recommendation.

6.4.4 It is considered that the scheme is acceptable on highway safety and pedestrian grounds, subject to conditions to restrict parking on site to the layout proposed, and the restriction of staff and customers. On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.5 Biodiversity

6.5.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the borough’s ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.5.2 As the application site is just the building and a surrounding hardstanding area, it is considered that additional biodiversity measures are not suitable in this case. Some level of biodiversity net gain is not considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition will not be attached to any decision issued to ensure the application provides the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan. An informative will be included, if any biodiversity measures are considered to be suitable.

6.6 Flooding

6.6.1 The site is within Flood zone 2. Policy CLP13 requires flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. It requires development proposals to:

- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;
- b) be directed to locations with the lowest impact on water resources;

c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.

6.6.2 In addition, CLP13 seeks to increase the capacity of the floodplain safely, make space for water across the whole borough, and to remove problems from the drainage network, particularly in connection with new development. To address matters of flooding the application has submitted a Flood Risk Assessment (FRA). It is agreed with the conclusions of the FRA that the application is for a development type exempt from the sequential test (as per NPPF footnote 56 – a small non-residential extension with a footprint of less than 250m²), and that an Exception test is not required.

6.6.3 It is noted that the FRA recommends further mitigation measures because the extension cannot be raised to provide sufficiently high floor levels due to access and headroom constraints. The applicant should submit detailed information to confirm the flood resistance mitigation measures (paragraph 4.1.3 of the FRA) and SuDS components (Table 5 of the FRA) that are being proposed for the site in order to accord with NPPF 167a to e, and CLP13. This will be secured by condition.

6.6.4 The Council's Design Services Team commented on the scheme that they had no objection to the proposal, as it is a minor development and mitigating measures have been proposed. The development is considered to be policy compliant with policy CLP13 subject to conditions.

6.7 Community Infrastructure Levy

6.7.1 The proposal does not require a CIL payment due to the proposed use being outside of the charging areas.

6.8 Land contamination and Coal mining Legacy

6.8.1 Policy CLP14 also requires development to be safe in terms of below ground impacts.

6.8.2 The Council's Environmental Health Team was consulted on the proposal and has not requested a land contamination report to be submitted for the proposal.

6.8.3 A Coal Mining Risk Assessment has been submitted for the proposal and the Coal Authority has been consulted on the scheme; they have not objected to the proposal, but it has been identified in the submitted report that a raft may be required in the foundations of the scheme. This is considered sufficient mitigation and whilst a condition was not requested it

is considered important to impose a condition for the works to accord with the submitted report. This will ensure that the proposal is acceptable in regard to coal mining legacy, as required by Policy CLP14.

7.0 REPRESENTATIONS

7.1 5 comments were received from 4 people. The comments were all objections, and these were the points raised:

- insufficient parking and manoeuvring on site,
- highway safety issues on busy road and junctions, both entering and leaving the site,
- potential for noise to adjoining residents from power tools and compressors,
- the potential for vehicles being parked off site in the surrounding area which would impact customer and staff parking for surrounding businesses,
- blocking of access for railway maintenance,
- pedestrian safety

7.2 Officer response – the above issues have been considered in the report.

8.0 HUMAN RIGHTS ACT 1998

8.1 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

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and the 2021 National Planning Policy Framework (NPPF) as

the proposed development does not conflict with the NPPF and with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

10.0 CONCLUSION

10.1 The proposed development is considered to be an acceptable change of use for the site and to be in-keeping with the character of the wider area. Furthermore, it is not considered that the development would result in significant injury to the neighbouring residents or lead to a negative impact upon highway safety of the local area subject to conditions. As such, this application is considered to comply with the requirements of policies CLP2, CLP6, CLP13, CLP14, CLP20 and CLP22 of the Chesterfield Borough Local Plan 2018-2035 and the revised National Planning Policy Framework.

11.0 RECOMMENDATION

11.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

11.2 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: Site Location Plan, Revised Parking layout (11/04/23), Vehicle Tracking (04/05/23), Proposed Elevations (24/05/23), Lintel Details, Proposed Floor plans and Elevations (15/09/22); with the exception of any approved non-material amendment.

Reason: In order to clarify the extent of the planning permission.

3. Prior to the ordering of external materials taking place, precise specifications and /or samples of; all fenestration including the large door opening and its detailed junction with the brick coursing and header detail, brick for the external wall and all roofing materials to be used shall be submitted to and agreed in writing by the Local Planning Authority.

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, in relation to policy CLP20.

4. No part of the development hereby approved shall be occupied until space has been laid out within the site in accordance with the approved plan for cars to be parked, and for vehicles to turn so that they may enter and leave the site in forward gear. The 3 external parking spaces should be clearly marked out, with no parking in front of the access gate. This is in line with the submitted drawings for the parking layout plan (11/04/23) and vehicular tracking (04/05/23).

Reason: In order to avoid the need for vehicles to park and turn on the highway in the interests of highway safety and policy CLP22 of the Adopted Local Plan.

5. The business shall be operated on an appointment only basis and there shall be no more than 2 staff present at the premises per day and 3 customers per day. No more than 3 customers' vehicles shall be at the site at any one time.

Reason - In order to ensure parking measures meet the scale of the operation and do not result in harm to highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

6. The premises shall not be used for the purposes authorised by this permission (including deliveries) other than between the following hours: 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays and no opening on Sundays and Bank Holidays.

Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with policy CLP14 of the Adopted Local Plan.

7. Unless otherwise agreed by the Local Planning Authority construction work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm 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 and policy CLP14 of the Adopted Local Plan.

8. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) produced by RAB dated 19th August 2022 and the following mitigation measures detailed within the FRA shall be implemented:
- The finished floor level of the extension should be set no lower than the existing,
 - Implement a scheme of flood resilience within the extension (and to the existing building as far as possible) in line with recommendations given in Section 4.1.3,
 - The site manager should register to receive Environment Agency Flood Alert provide useful information about local flood conditions as outlined in Section 4.2.2.
 - Review the use of small retrofit SuDS components when making any modification to the existing surface water drainage scheme (refer to Section 4.3.2).
 - Construction (Design and Management) Regulations 2015

The revised CDM Regulations came into force in April 2015 to update certain duties on all parties involved in a construction project, including those promoting the development. One of the Designer's responsibilities is to ensure that the Client organisation, in this instance Sukhbinder Singh Lalli, is made aware of their duties under the CDM Regulations.

Reason: To reduce flooding in the locality and policy CLP13 of the Adopted Local Plan.

9. The Solid Masonry Wall insulation details submitted 22.02.2023 and the email content from the agent dated 15.09.2022 noting the 225mm masonry wall and 50mm gap from the party wall, shall all be fully installed along the length and full internal height of the existing and proposed south eastern party wall prior to the occupation of the premises.

Reason: To protect the amenities of the adjoining properties in accordance with Policy CLP14 of the Adopted Local Plan.

10. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), this permission shall relate solely to the use of the land and buildings for a car repair garage within Use Class B2

and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason: To ensure that any other use within the same class of the schedule is controlled and considered under a planning application to protect the amenity of the neighbouring residents in accordance with Policy CLP14 of the Adopted Local Plan.

11. The development shall be completed in accordance with the mitigation strategy and conclusions of the Coal Mining Risk Assessment by Envirosolution dated 11.11.2022.

Reason: To ensure risk from former Coal Mining Activity are mitigated in accordance with Policy CLP14 of the Adopted Local Plan.

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. Any external changes to the building may require planning permission. The applicant should communicate with the Local Planning Authority and their Conservation Officer if any changes to the building are proposed.
3. Any adverts to the building may require planning permission, the applicant should communicate with the Local Planning Authority and their Conservation Officer if any advertisements to the building are proposed.
4. It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, developers should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.