

### Item 3

CHE/22/00828/FUL - Erection of single storey annex to be used in conjunction with existing house (amended plans and description) at 277 Handley Road, New Whittington, Chesterfield, Derbyshire, S43 2ES for Mr and Mrs Knight.

#### 1. **CONSULTATION RESPONSES**

Drainage	No objections
Environmental Health	No comments received
Highways	No objections
Tree Officer	No objections, subject to conditions
Ward Councillors	Comments received from Cllr B Bingham requesting application be determined at planning committee
Representations	10 received from 3 neighbouring properties.

#### 2. **SITE DESCRIPTION**

- 2.1. The application relates to a part of the garden area to the side/rear of 277 Handley Road, which is within the residential curtilage of the property. The site, approx. 0.18ha in area, currently comprises a detached bungalow, driveway and large rear garden which backs onto an area of woodland which is within the green belt area. The proposed development will be located where a detached garage, since demolished, previously stood.
- 2.2. The site is accessed via a shared track leading from Handley Road towards the woodland area to the rear to the Northwest, known as 'The Black Hills'. There is also a separate and parallel track which provides access to the dwellings of 279-283 Handley Road.
- 2.3. The surrounding area is solely residential, characterised by other detached bungalows and larger semi-detached dwellings, which are of varying designs and material construction. The site is located close to a bend in the highway where Handley Road becomes Long Lane and the speed limit changes, from 30mph to National Speed Limit. This is also

the boundary between the Borough and North East Derbyshire District Council.



### 3. PLANNING HISTORY

3.1. None

#### **4. PROPOSAL**

- 4.1. The applicant is seeking permission for the erection of a single storey building to be used as an annex in conjunction with the occupation of the main property. The building will measure 7.32m (W) by 8.35m (L) giving a total floor area of 61.12m<sup>2</sup>. The building will have a gable pitched roof, with eaves and ridge of 2.43m and 4.45m respectively.
- 4.2. The annex will accommodate 2 bedrooms, living/dining room and bathroom, with car parking to the front, shared with 277 Handley Road. Kitchen facilities are within the main dwelling.
- 4.3. The initial submission proposed a two-storey structure however this was reduced due to concerns over the impact it would have on the host dwelling and surrounding street scene. It is the revised single storey structure that is to be determined by the committee.

#### **5. 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**

- CLP2 Principles for Location of Development (Strategic Policy)
- 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**

- Part 2. Achieving sustainable development
- Part 4. Decision-making

- Part 8. Promoting healthy and safe communities
- Part 12. Achieving well-designed places
- Part 15. Conserving and enhancing the natural environment

#### **5.4. Supplementary Planning Documents**

- Successful Places Residential Design Guide

### **6. CONSIDERATION**

#### **6.1. Principle of Development**

6.1.1. The application site is situated within the built settlement area of New Whittington, on the edge of the Green Belt and Local Authority boundary. This area is predominantly residential in nature, where works to domestic dwellings are generally considered acceptable in principle. Having regard to the proposed development, Local Plan policies CLP1, CLP2, CLP14 and CLP20 and the wider National Planning Policy Framework (NPPF) apply. In addition, the Council's SPD on Housing Layout and Design "Successful Places" is also a material consideration.

#### **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 initial proposal would have introduced a large two-storey structure on the site, which would have appeared as an incongruous feature when viewed in the context of the surrounding bungalows. The amended scheme presents a single storey outbuilding which is of the scale and massing of a large domestic garage and which would be set back from the main property to its rear, screening it from public vantage points from the public highway. A garage building used to exist at the property before it was demolished.

- 6.2.3 The proposed building will be seen from the neighbouring properties at xxx which face toward the site however the building is of a scale and position which is not uncommon at a residential property and is not therefore inappropriate in its context.
- 6.2.4. The proposed materials of rendered blockwork with stone quoins reflect those used in the main property. Detailed samples of the proposed materials will be conditioned to be submitted prior to their use in the development.
- 6.2.5. The proposal is therefore not considered to have a detrimental impact on the area. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

### **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 proposed development will result in the creation of a residential annex separate from the main dwellinghouse at 277 Handley Road. The proposed development will provide approximately 62.12m<sup>2</sup> of habitable space (when including the eaves space which could be used for storage). This is noted to be in line with the minimum internal space requirements as set out in the Technical Housing Standards – Nationally Described Space Standards (for a 2 bed, 3/4-person occupancy dwelling). It is acknowledged this only forms a guide however and therefore limited weight is given to this document as this LPA has not adopted the standards set out in it.
- 6.3.3 The size of the building means that it could function as a separate dwelling in the future however, this would require planning consent. In addition, the close relationship between the proposed annexe accommodation and the existing dwelling would likely give rise to possible amenity conflicts if the annexe was used as a standalone dwelling. For this reason, it is considered appropriate to condition the

proposed annexe to be occupied only in conjunction with the main dwellinghouse.

6.3.4 The erection of the building to form ancillary accommodation in relation to the existing dwellinghouse would still enable the property at the application site to have access to sufficient outdoor shared amenity space. The proposal would result in 4-5 bedrooms provided at the application site (across both the main property and proposed annex) and, according to the guidance set out in the adopted SPD, should therefore have access to a minimum of 90 square metres. This is considered to be achievable given the size of the site.

6.3.5. The proposed building is located far enough away from neighbouring dwellings, and its height & massing are similar to a large garage, so as not to have a detrimental impact in terms of overshadowing or overbearing character. There are no main windows which face neighbouring properties, maintaining privacy levels to a reasonable degree.

6.3.6. Taking the observations made above into account, it is considered the proposed erection of a single storey outbuilding to form an ancillary annexe to the main residential dwelling can be considered to be acceptable subject to the annexe only being occupied in conjunction with the main dwellinghouse. Appropriate planning conditions can be included to bind the annexe to the residential occupation of the main dwelling at 277 Handley Road.

6.3.7 On this basis the proposal is considered to accord with the provisions of policies CLP14 and CLP20, as well as the revised NPPF.

## **6.4. Highway Safety**

6.4.1. Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.

- 6.4.2. The proposal does not result in the loss of off-street parking for the existing dwelling and parking for the annex is to be provided within the site.
- 6.4.3. The main issue raised by objectors is the impact of the development on highway safety, particularly vehicles entering and exiting the site, due to proximity to the semi-blind bend and change in speed limit – from 30mph to National Speed Limit – to the Northeast of the site. It is noted that there have been road traffic accidents close to site involving vehicles colliding with a nearby stone wall to the North of the site.
- 6.4.4. The application site allows for better visibility up and down Handley Road, compared to the adjoining neighbouring track, and vehicles can ingress/egress the site in a forward gear, which reduces the potential for collisions between reversing vehicles and traffic already on the highway.
- 6.4.5. Comments regarding highways safety and vehicular collisions with the wall to the North are noted however, these have occurred whilst there has been no development on the application site, and it is not clear that the additional vehicle movements associated with the development will increase the likelihood of further road traffic accidents on this stretch of public highway.
- 6.4.6. The applicant has a right of access over the track which will serve the proposed annexe (shown in deeds to the property), and there is clear visibility from the site along the track from the highway towards the access gate at the woods to the Northwest. As such, it is unlikely that vehicles using the site will come into conflict with vehicles using the access track, which is not hard surfaced and doesn't allow for vehicles to travel at speed along it.
- 6.4.6 The Highways Authority have been consulted on the proposal and were re-consulted following comments from neighbours. In both instances, no objections have been raised in relation to highway safety, with appropriate planning conditions which have been suggested.

6.4.7. 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 boroughs 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. The proposal is considered to be a minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition can be attached to any decision issued to ensure the application provides biodiversity net gain measures, as a result of the proposed development.

6.5.3. The Council’s tree officer was consulted on the application and has raised no objections. However, to compensate for the loss of a section of hedgerow which has been removed to facilitate the development, appropriate planning conditions should be attached for a landscaping scheme to improve the general soft landscaping along the boundary and provide additional wildlife habitats for the site.

6.5.3. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

## **6.6. Drainage**

6.6.1. Comments from neighbours have been made regarding drainage in the site, particularly the alleged redirection of surface water run-off from the applicants’ access to the adjoining track which serves neighbouring dwellings.



6.6.2. As this issue relates to two parcels of private land, the matter would need to be resolved between individual parties. Drainage provision for the proposed building would be detailed and approved during building regulations approval, which the proposal will require due to the building exceeding 30m<sup>2</sup> in floor area.

6.6.3. Design Services Drainage were consulted during the application and have raised no objection to the proposal. It is noted that connection to the sewer network will require consent from Yorkshire Water.

## **6.7. Land Ownership**

6.7.1. The LPA has been made aware that the applicant does not own the strip of land adjoining the site which would be used to access the proposed new building. Whilst the applicant has a Right of Way over the access they do not own the land and so they have provided an appropriate certificate, notifying the landowners of the proposal. No comments have been received by the Council from the landowners regarding the proposed development.

## **7. REPRESENTATIONS**

7.1. Notification letters were sent to neighbouring properties and ten representations have been made from three neighbouring properties as a result. The issues raised include:

- Owners of the access track have not been informed of the development.
- The applicant does not own the access track and is misrepresenting the site by including it within the site boundary.
- A public site notice was not posted.
- A neighbour further along the adjoining track was not notified of the application.
- Neighbours have not been given appropriate timescales to make comments on the application.
- Correspondence with the applicant not being in the public realm.
- Derbyshire CC Highways based their comments on incorrect information.
- Derbyshire CC Highways have not taken appropriate consideration of the dangerous road conditions at the top of Handley Road.

- The development sets a precedent for further residential development in rear gardens.
- The height of the building is out of character with the surrounding properties.
- The proposed building is the equivalent size of a brand-new dwelling.
- The proposed building will block light/sunlight to the adjacent private lane.
- Querying the requirement for an annexe within the site
- Highway safety issues from vehicles entering/exiting the site – there have been road traffic accidents at this part of Handley Road due to speeding vehicles misjudging the bend in the road.
- Poor visibility when exiting the site and appropriate visibility splays cannot be achieved, raising highways safety concerns.
- A previous application to a nearby property was refused, and the subsequent appeal dismissed, due to highway safety concerns.
- The applicant has diverted water from their property onto the adjoining access track, causing further deterioration and erosion of the surface.
- The applicants have caused nuisance through the burning of garden/green waste and via the removal of a hedgerow, which may contain Japanese Knotweed
- The applicant does not intend to use the building as an annexe, instead utilising it as a separate, independent dwelling.
- The boundary between the site and track leading to the 'Black Hills' could be reinstated at any time by the landowners, which would affect the access to the site and potentially cause further highway safety issues.

7.2. Many of the issues raised have been addressed in the report above.

7.3. As the development is considered a minor development, there is no statutory requirement to advertise the application via site notice. Properties which shared a boundary with the site, or which were close enough to the development to be impacted by it were notified by letter, in compliance with the Development Management Procedure Order. Other neighbours appear to have been notified by word of mouth and could have submitted representations if they wish. Interested parties do not need to receive a letter in order to make representations.

- 7.4. Any issues regarding the reinstatement of the boundary between the site and the track serving the 'Black Hills' would be private matter between individual parties.
- 7.5. There is no requirement for correspondence between the Council and applicant to be made public. Communications between the LPA and applicant has sought to amend the scheme and ensure the application is valid.
- 7.6. The LPA cannot speculate on the intended use of the building however, as it is described as an annex, it would be reasonable to include planning conditions tying it to the ownership of the main property.
- 7.7. The previous application was determined by different authority and relates to a different site where the materials considerations will not be the same. All applications should be judged on their own merits.

## **8. HUMAN RIGHTS ACT 1998**

- 8.1. Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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. STATEMENT OF ENGAGEMENT**

- 9.1. In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2019 National Planning Policy

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

- 9.2. The Local Planning Authority have considered this application in a positive and proactive way to achieve a positive outcome for the application.

## **10. CONCLUSION**

- 10.1. Overall, the proposal is considered to be acceptable in accordance with the above identified policies of the Local Plan. The proposal would not harm the character of the street scene, would not have a harmful impact on the amenity of the occupiers or surrounding residents, does not raise any highway safety concerns and a scheme of biodiversity net gain can be secured by condition. It is therefore considered that the application is acceptable from a design, amenity, highways, biodiversity perspective.
- 10.2. Representations from neighbors are noted however, the issues raised do not warrant a recommendation for refusal in this instance.

## **11 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 (listed below) with the exception of any approved non-material amendment. All external dimensions and

elevational treatments shall be as shown on the approved plan/s (listed below).

- Drawing Titled 'Proposed Elevations and Floor Plans' (Published 28.03.2023)

**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. The self-contained accommodation hereby permitted shall only be occupied in connection with, and incidental to, the occupation of the adjoining dwelling known as 277 Handley Road, in that it shall:

- Only be occupied by persons with a familial link or demonstrable relationship to the occupants of the main dwelling;
- not be identified or addressed as a separate postal address;
- not be occupied in the event the main dwelling is unoccupied; and
- not be occupied under any form of contract.

**Reason** – The provision of an independent unit of living accommodation would not safeguard a sufficient degree of residential amenity for the occupants of either the existing dwelling or the proposed accommodation in accordance with policies CLP14 and CLP20 of the Adopted Local Plan 2020.

4. Prior to the ordering of materials, details of the render, stone quoins, roof materials and windows & doors materials shall be submitted to and approved in writing by the Local Planning Authority. Only the materials agreed in writing shall be used at the application site.

**Reason** – In the interests of the visual amenity of the area in accordance with Local Plan policies CLP14 and CLP20.

5. No construction works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time

on Sundays or Public Holidays.

**Reason** – To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with Local Plan policies CLP14, CLP20 and CLP22.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no buildings, structures, extensions, fences, gates, walls or other means of enclosure – other than those expressly authorised in this permission – shall be erected within the curtilage of the dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

**Reason** – In the interests of the amenity of residential occupants in accordance with Local Plan policies CLP14 and CLP20.

7. Prior to completion of the development hereby approved; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion. Details shall include:
  - a) a scaled plan showing vegetation to be retained and trees and plants to be planted along with habitat/wildlife improvements:
  - b) a schedule detailing sizes and numbers of all proposed trees/plants.
  - c) sufficient specification to ensure successful establishment and survival of new planting.
  - d) details of biodiversity and ecological enhancement measures to be installed into the development on site.

Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting

shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation). The ecological enhancement measures shall thereafter be retained and maintained throughout the life of the development.

**Reason** – Required to safeguard and enhance the character and amenity of the area and in the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework

### 11.3. Informative Notes

1. The Local Planning Authority have, during the consideration of this application, engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.
2. 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.
3. Coal Authority Informative 01/01/2023 – 31/12/2024

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance

where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

4. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. You must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter.

These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.

5. In accordance with condition no. 7(d) of this permission, appropriate ecological / biodiversity enhancement measures shall include but shall not be limited to:



- Bird/Owl/Bat Boxes

### **Locating your nestbox:**

Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.

You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.

### **Locating your bat box:**

Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

- Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.
- Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.