

ITEM 3

ERECTION OF AN APARTMENT BLOCK (8 UNITS) WITH ASSOCIATED PARKING, AMENITY AREAS AND LANDSCAPING (REVISED SCHEME OF CHE/20/00808/FUL) AT LAND TO NORTH OF DUNSTON ROAD, CHESTERFIELD, DERBYSHIRE FOR G H PRESTON

Local Plan: Unallocated

Ward: Dunston

1.0 CONSULTATIONS

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|--------------------------|--|
| Ward Members | No representations received |
| Strategic Planning | Acceptable in principle. Appropriate conditions should be used to cover: the water efficiency standard, the provision of electric vehicle charging points, secure cycle parking and the provision of a measurable net gain for biodiversity |
| Estates | No comments received |
| Environmental Health | No comments received on this application (Comments on CHE/20/00808/FUL - No objections in principle subject to consideration of the impact from operational mechanic garage and design of internal layout so noise sensitive rooms are away from garage. Conditions required covering construction working hours, lighting, air quality and electric charging provision and land contamination.) |
| Design Services Drainage | Site not shown to be at risk of flooding. Request to see full drainage details prior to full approval of how developer intends to dispose of surface water and foul drainage from proposed site. |
| Yorkshire Water | No objections subject to conditions requiring details of surface water drainage prior to installation of any piped discharge for written approval. |

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|-------------------------------|---|
| The Coal Authority | No objection subject to a pre-commencement condition requiring intrusive site investigations and associated remediation/mitigation. |
| Cycle Campaign | No comments received on this application. (Comments on CHE/20/00808/FUL - Objection due to lack of secure cycle parking within the development. Site well located for local cycle routes including Stonegravels Way linking to railway station and town centre.) |
| Tree Officer | No objections to the proposals in general as the land has previously been cleared of vegetation. A detailed landscaping scheme is therefore required and should be attached as a condition if consent is granted to the application. |
| Derbyshire Wildlife Trust | No comments received on this application (Comments on CHE/20/00808/FUL - On the basis of the information submitted that it is unlikely protected species will be impacted (with the exception of breeding bird) and some precautionary measures are recommended. See report.) |
| Local Highways Authority | As the revisions do not alter the original HA response to planning application CHE/20/00808/FUL, it is recommended that Conditions cover parking provision, site access and visibility and site compound details. |
| Derbyshire Swift Conservation | The Ecological Appraisal recommends bespoke House Sparrow and Starling nest boxes unless the structure of the building allows the installation of Swift bricks at a height of 6m or more. Request that a condition is imposed. |
| CIL Officer | CIL paperwork provided |
| Representations | 1 letters of representation has been received. Summarised in report (see section 6.0) |

2.0

THE SITE

- 2.1 The site subject of this application is situated on the north side of Dunston Road. The site is broadly rectangular in shape with a stepped northern boundary which tapers towards the east/north east of the site. The site is approximately 0.08 hectares in area (800m²).
- 2.2 The surrounding streetscene is mixed in character comprising of residential dwellings to the east/north east and south/south west. To the north of the site is a commercial car garage and to the north west is a site operated by Derbyshire County Council Corporate Property.



- 2.3 The site is in a sustainable location in walking distance of Whittington Moor District centre which offers a range of services. The site is in close proximity to Gilbert Heathcote Nursery and Infant School, Cavendish Junior School and Whittington Moor Surgery. The application site is not allocated for a specific use on the Chesterfield Borough Council adopted local plan policies map 2018-2035 and is within the defined built up area (Policy CLP3).

Aerial photograph of site from Google © (see location plan)



2.4

Conditional permission was granted in 2021 for the same scheme under application CHE/20/00808/FUL (see site history). The scheme does not expire until **21.06.2024** therefore subject to compliance with pre-commencement conditions remains a live consent and relevant fall-back position. A minor change to the scheme is proposed as it has become apparent that a small area of the site in the southern front corner is not within the ownership of the applicant and the red line boundary has been amended accordingly. See comparative plans below;

CHE/20/00808/FUL Red line boundary of approved application

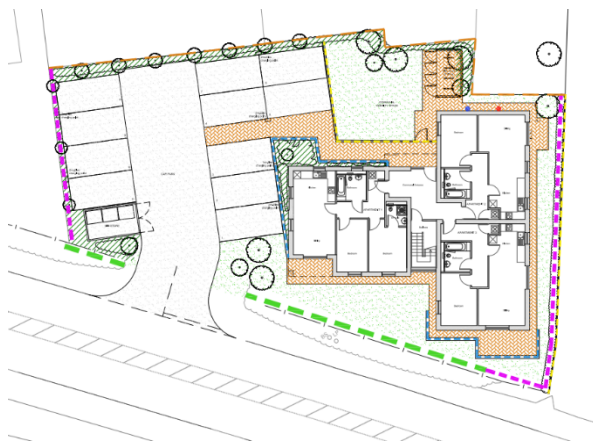
CHE/23/00313/FUL Revised red line boundary as part of this application



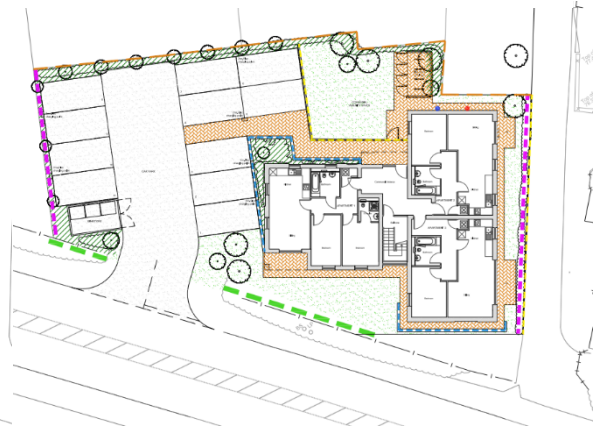
2.5

To address the alteration to the red line boundary minor changes are proposed to move the small area of hard surfacing creating a patio for Apartment 3 to the south eastern corner of the site as indicated in the landscaping plan below. The ground floor window to the south west elevation fronting Dunston Road and serving Apartment 3 is proposed to be moved to the side south east elevation to provide unrestricted outlook for the occupants and direct access to the external patio. All other elements of the scheme remain unchanged.

CHE/20/00808/FUL
landscaping of approved application



CHE/23/00313/FUL
Revised site layout with minor change to hard surfacing



CHE/20/00808/FUL
Previously approved south east and south west elevations



CHE/23/00313/FUL
Revised south east and south west elevations showing amended ground floor window placement



3.0 **SITE HISTORY**

3.1 CHE/20/00808/FUL - Erection of an apartment block (8 units) with associated parking, amenity areas and landscaping (Revised Scheme of CHE/20/00808/FUL) – **CONDITIONAL PERMISSION (21.06.2021)**

3.2 CHE/08/00235/OUT - Semi-detached dwellings – **REFUSED (19.11.2008)**

Reason for refusal copied below;

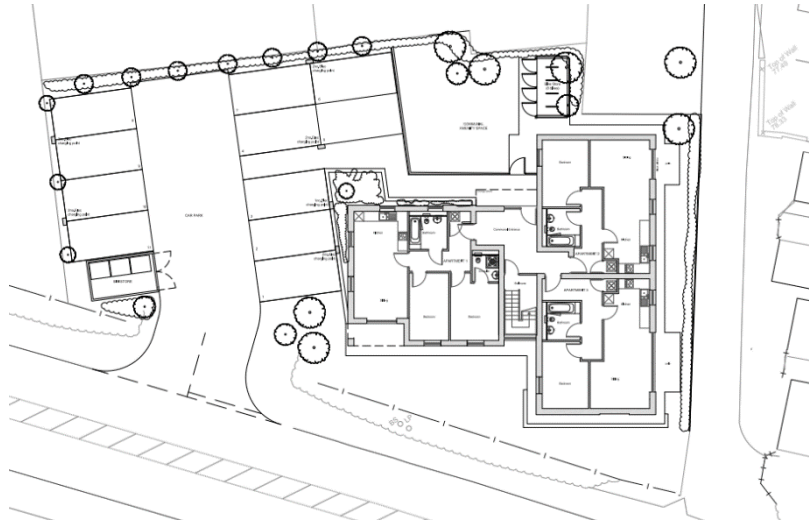
01. The Local Planning Authority considers that the development of this site in isolation is not in the interests of good planning. Policy HSN 6 of the replacement Chesterfield Borough Local Plan adopted June 2006 promotes comprehensive redevelopment of backland sites. This proposal has the potential to sterilise the development of adjoining sites which minimises the potential for a comprehensive redevelopment of the area.

02. Development of this site adjacent to industrial premises would be detrimental to residential amenity which is contrary to policy EVR 23 (2) of the Replacement Chesterfield Borough Local Plan adopted June 2006.

4.0 **THE PROPOSAL**

4.1 The application proposes the erection of a 2.5 storey block of 8 flats situated adjacent to the southern boundary of the site in a 't-shaped' formation. The proposal comprises of a mix of 5 x 1-bed units and 3 x 2-bedroom units. Each unit has an open plan living/kitchen dining area, bathroom and separate bedroom. The 2-bedroom units also include an en-suite bathroom to one bedroom. Balconies are provided to Apartments 4 and 6. Ground floor apartments 1, 2 and 3 also benefit from direct access to external amenity space.

4.2 Revised plans submitted include secure cycle storage, electric charging provision and amended car parking layout to provide 11 car parking spaces (equivalent to 1 space per 1 bed unit and 2 spaces per 2 bed unit).



Extract of proposed site plan Revision J ©

- 4.3 Access to the site will be taken from Dunston Road public highway, supporting drawings have been provided demonstrating the achievable 2.4m x 4.7m visibility splays in both directions.
- 4.4 The design of the proposal responds to the character of the prevailing built form. The proposal comprises of 2.5 storey building with dual pitched roof and intersecting gables. Submitted plans indicate red facing brick with contrasting black/grey brick as a design feature, dark grey concrete roof tiles and grey upvc windows. The building façade features varied fenestration in a contemporary design (see elevational plans).



Extract of Proposed Elevations Revision G ©



Indicative 3D visualisation of proposed scheme ©

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 Chesterfield Borough Local Plan 2018 – 2035.

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development
- CLP3 Flexibility in Delivery of Housing
- CLP13 Managing the water cycle
- CLP14 A Healthy Environment
- CLP15 Green Infrastructure
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF) 2021
 - 5. Delivering a sufficient supply of homes
 - 8. Promoting healthy and safe communities
 - 9. Promoting sustainable transport
 - 12. Achieving well-designed places
 - 15. Conserving and enhancing the natural Environment

- ‘Successful Places’ Supplementary Planning Document

5.4 **Principle of Development**

Relevant Policies

- 5.4.1 The application site is unallocated and is positioned within the built form of Dunston therefore policies CLP1 and CLP2 are of relevance. Relevant policy extracts are provided below, for full wording of policies see the Chesterfield Borough Local Plan 2018 – 2035.
- 5.4.2 Policy CLP1 states that *‘The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the ‘place shaping’ areas set out in policies SS1 to SS6 and Regeneration Priority Areas.’*
- 5.4.3 Policy CLP2 states that when *‘Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:*
- a) deliver the council’s Spatial Strategy (policy CLP1);*
 - b) are on previously developed land that is not of high environmental value;*
 - c) deliver wider regeneration and sustainability benefits to the area;*
 - d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;*
 - e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;*
 - f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;*
 - g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
 - h) are not on the best and most versatile agricultural land;’*
- 5.4.4 In July 2021 the NPPF was updated, the previous approval was issued in June 2021 just before the revised NPPF was published. The principle of development however remains compliant with the latest version of the NPPF.

Considerations

- 5.4.5 The application site is unallocated and is positioned within the built up area of Dunston therefore policies CLP1 and CLP2 are of relevance. The Planning Policy/Strategic Planning team reviewed the application and confirmed that the proposal would not be a departure from the Local Plan and would accord with the broad location principles of the Local Plan policies and the NPPF.
- 5.4.6 The application site is located within walking and cycling distance of key services located in the defined Whittington Moor District centre with access to public transport therefore the proposal is considered to accord with the principles of CLP1. The proposal would accord with criteria a, d, e, f and h of CLP2. The proposal would introduce additional housing within the existing built up area of Dunston (CLP3) and therefore meets the strategic requirements of Local Plan policies CLP1 and CLP2 and the NPPF.
- 5.4.7 It is necessary to reflect on the previous refusal which considered that a residential development on this site in isolation would sterilise the development of the adjoining sites and minimise the potential for comprehensive re-development of the area. Since the previous refusal the Local Planning Authority has adopted a new Local Plan with new policies. No further proposals have come forward in this time period for a larger re-development of the site in conjunction with surrounding plots. Comments received from the occupiers of the commercial premises to the rear made no reference to immediate plans for re-development. Each application is therefore considered on its own merits. The site is not allocated in the local plan and is considered to be in a sustainable location for residential development which accords with local plan policies.
- 5.4.8 The previous refusal also raised concerns about the location of the site adjacent to industrial premises which would be detrimental to residential amenity. The existing commercial units are surrounded by residential premises on Albert Street North and St John's Road. The Council's Environmental Health Officer previously highlighted that no complaints had arisen as a result of the operation of the units prompting investigation. The development has been designed to limit window openings facing the commercial premises to the north and introduced a fixed window in proximity to the identified log burning flue. It is considered that potential impacts on the amenity of the future occupiers can be addressed through a condition requiring submission of mitigation measures prior to occupation.

5.5 Design and Appearance of the Proposal

Relevant Policies

- 5.5.1 Local Plan policy CLP20 states *'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.'*

Considerations

- 5.5.2 The application proposes the erection of a 2.5 storey building formed of a t-shaped footprint. The proposal is set back from Dunston Road and situated in the southern corner of the site. The proposal has been designed to respond to the traditional architectural character of the surrounding dwellings with a dual pitched roof form and intersecting gables. The proposal represents a modern design showing consideration of the traditional characteristics within the area.
- 5.5.3 The development combines contrasting brickwork and contemporary glazing, the dominant palate of materials reflects the surrounding streetscene, particularly the brick-built properties on St Johns Road to the east/south east. It is recommended that a condition be imposed requiring the submission of specific materials (roofing and walling) and windows prior to ordering.
- 5.5.4 The building is 2.5 storeys in height overall and is set down from Dunston Road public highway to reduce the height and scale of the development. The scale and massing are considered to be acceptable within the site context. The proposed development is relatively high density, however, it is considered that the proposed design and layout responds well to the constraints of the plot and site context.
- 5.5.5 The proposal will create dwellings which would each provide acceptable levels of living accommodation for future occupiers. It is noted that to accommodate additional off-street parking in response to concerns raised by residents and the Local Highways Authority the amount of shared private amenity space has been reduced.

- 5.5.6 Landscaping details have been provided indicating areas of proposed planting, hard surfacing and boundary treatment. Specific details of type/numbers of plants and materials have not been provided and therefore should be controlled by condition.
- 5.5.7 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the provisions of policy Local Plan policies CLP20 and CLP21.

5.6 Impact on Residential Amenity of Surrounding and Future Occupiers

Relevant Policies

- 5.6.1 Local Plan policy CLP14 in part states that *'All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts'*.
- 5.6.2 Local Plan policy CLP20 expects development to *'k) have an acceptable impact on the amenity of users and neighbours;'*

Considerations

- 5.6.3 The application site is bound by a mixture of residential and commercial premises. The closest residential dwellings are situated on Dunston Road to the south/south west on the opposite side of the public highway, St John's Road to the east/south east and Albert Street North to the north. The proposal is considered to be situated with an acceptable separation distance between the rear elevations of properties on Albert Street North, St John's Road and the principle elevations of properties on Dunston Road which accord with the Successful Places SPD. Additional screening is provided by detached garages in the rear gardens of properties on St John Street. To mitigate potential overlooking arising from Apartment 5 the proposed balcony was removed and replaced with a fixed window.
- 5.6.4 The proposal will therefore retain an acceptable separation distance between the proposed dwellings and surrounding residential

dwellings on St John's Road, Dunston Road and Albert Street North. The proposal would therefore not result in undue loss of light or privacy as a result. Overall, due to the siting and orientation of the proposed development relative to the adjoining dwellings, it is not considered that the development would cause any significant injury to the residential amenity of the other boundary sharing neighbours.

- 5.6.5 The application site is bound by commercial premises including a car repair garage directly to the north/north east of the proposed development. Existing residential dwellings are located to the north/north east and south/south east to the commercial units. The Council's Environmental Health Officer was consulted on the scheme and previously provided comments on the proximity to a log burning flue and potential noise arising for the mechanic's yard/garage. The Environmental Health Officer previously highlighted that they have not received or investigated a complaint from the residential dwellings regarding noise from these premises, which have been in operation for some time, but that it would be advisable for the applicant to consider noise mitigation during the design/build phase of the apartments for example double/triple glazing and trick vents. Recommendations were also made for relocation windows or re-orientating the floor layout so that the openable windows are not on the façade next to the mechanics garage.
- 5.6.6 To address the concerns raised previously a fixed window was introduced at first floor level in proximity to the identified wood burning flue. No windows are proposed in the elevation closest to the garage. The windows indicated to the north east elevation to Apartment 1 and 4 serve a bathroom and a secondary window to the open plan kitchen/living space. One window is indicated to serve the bedrooms of Apartment 2 and 5 to the north west elevation, facing north west across the communal amenity space and parking area.
- 5.6.7 It is recommended that a condition be imposed requiring the submission of a noise impact assessment and proposed mitigation measures shall be submitted to and approved by the Local Planning Authority. The noise assessment should demonstrate that the design of the glazing, ventilation, wall and roof structures ensure sufficient sound insulation for the occupants of the building. Prior to the residential occupation of the hereby permitted development, compliance testing shall be undertaken and results shall be submitted to the Local Planning Authority for written approval. The

approved noise mitigation measures shall be retained in perpetuity for the life of the development.

- 5.6.8 It is recommended that conditions previously requested by the Environmental Health Officer covering construction working hours and lighting be imposed on the decision in the interests of the amenity of the surrounding occupants. Matters covering electric charging providing and land contamination will be addressed in the following sections.
- 5.6.9 The revised plans propose a communal lawn to the north and a landscaped area with lawn to the south/south west. The area to the south/south west will be largely screened from the public highway by the mature hedge on the site frontage. In addition, Apartments 4 and 6 will benefit from balconies. The application will therefore provide acceptable levels of amenity space for future occupiers.
- 5.6.10 Revised plans propose an amended internal layout to provide a full length window to the living accommodation serving Apartment 7 and the introduction of larger elongated roof lights with balcony openings to create enhance the amenity of the occupants of Apartments 7 and 8.
- 5.6.11 Having consideration for the observations above the proposal is considered to be appropriately designed and subject to conditions is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours or future occupiers. The proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.7 Highways Safety, Vehicle and Cycle Provision and Air Quality

Relevant Policies

- 5.7.1 Local Plan policy CLP20 expects development to '*g) provide adequate and safe vehicle access and parking;*' and '*h) provide safe, convenient and attractive environment for pedestrians and cyclists*'.
- 5.7.2 Local Plan policy CLP22 details the requires '*To reduce congestion, improve environmental quality and encourage more active and healthy lifestyles, the Council will seek to maximise walking, cycling and the use of public transport through the location and design of*

development and parking provision’ and seeks ‘e) provision of opportunities for charging electric vehicles where appropriate.’

Considerations

- 5.7.3 The Local Highway Authority were consulted on the original scheme and raised concerns regarding the ratio of spaces to number of units. The Local Highway Authority recommended the number of parking spaces be increased to reduce the likelihood of parking on-street or on/part on the footway which would be against the best interests of the safe and free flow of traffic with the potential to force vulnerable highway users into the live carriageway to by-pass obstacles. Concerns raised about the number of off-street parking spaces and previously recommend the provision of 14 spaces in total (2 spaces per 2 bedroom apartment and 1.5 spaces per 1 bedroom apartment).
- 5.7.4 The Highways Officer also recommended that minimum dimensions of parking spaces should be 2.4m x 5.5m with 6m to the rear for manoeuvring, stating the spaces as shown appear to be too short impacting on the manoeuvring space. The Highways Officer also noted that there is considered to be sufficient frontage to create an access with adequate exit visibility splays which should be maintained accounting for 0.5m of seasonal growth of the existing hedge.
- 5.7.5 Further comments from the Local Highways Authority have been provided for the current submission, the previous comments were reiterated and conditions were requested covering site storage/compound during construction, parking provision and access/visibility splay requirements.
- 5.7.6 The comments from the Local Highways Authority have been noted. The submitted plans propose 11 spaces (equating to 1 space for each 1 bedroom flat and 2 spaces for each 2 bedroom flat). It is acknowledged that the number of proposed spaces is less than originally requested by the Local Highways Authority, however 11 spaces is considered to be an appropriate balance given the sustainable location and opportunities for cycling connections and enabling the retention of amenity space and soft landscaping. The previous submission with 11 parking spaces was previously deemed to be acceptable and agreed by Planning Committee in 2021. The size of the parking spaces reflects the space standards stipulated in the adopted Successful Places SPD.

- 5.7.7 It is also recommended that conditions covering site storage/site compound during construction, parking provision and visibility splay be imposed on the decision to ensure the development complies with the requirements of CLP20 and CLP22.
- 5.7.8 The Council's Environmental Health Officer previously requested electric vehicle charging point be installed as part of the building phase in accordance with policy. The applicant has provided a revised plan showing electric charging provision available for each parking space, as electric charging provision is now covered by building regulations it is no longer necessary to impose this requirement by condition.
- 5.7.9 Chesterfield Cycle campaign objected to the original proposal due to the lack of cycle provision within the development. No further comments have been received for this submission. The plans were previously amended to address the concerns and the scheme now includes secure bicycle storage for 8 bikes to the rear of the building.
- 5.7.10 Subject to conditions covering the matters raised above the proposal is considered to accord with the requirements of CLP20 and CLP22.

5.8 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.8.1 Local Plan policy CLP13 states that *'The council will require 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.*
Development proposals and site allocations will:
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.
- 5.8.2 Local Plan policy CLP13 states that *'Development proposals will be expected to demonstrate that water is available to support the*

development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.'

Considerations

- 5.8.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. Having regards to the provisions of CLP13 and the wider NPPF the application was referred to the Council's Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water
- 5.8.4 The Design Services (Drainage) Team reviewed the application and highlighted that the site not shown to be at risk of flooding according to the Environment Agency maps and requested to see full drainage details prior to full approval of how developer intends to dispose of surface water and foul drainage from proposed site. The site should be developed with separate foul and surface water drainage systems as stated by Yorkshire Water. Any new connections to the public sewerage system will require prior approval from Yorkshire Water
- 5.8.5 Yorkshire Water reviewed the application and raised no objections subject to conditions covering separate systems of foul and surface water on and off site, details of surface water drainage works to be agreed prior to installation
- 5.8.6 It is considered that full drainage detail can be submitted for consideration and controlled by condition prior to the installation of any drainage systems to meet the requirements set out by the consultees. Subject to the imposition of relevant conditions the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.9 Ground Conditions, Land contamination and Land Stability

Relevant Policies

- 5.9.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*

- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and*
- b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and*
- c) a strategy for any necessary mitigation and/or remediation and final validation.*

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions. For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

5.9.2 Paragraph 183 of the NPPF states that *'Planning policies and decisions should ensure that:*

Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

Considerations

5.9.3 The application site is located in an area considered to be at 'high risk' of former Coal Mining Legacy. Having regards to the provisions of CLP14 and the NPPF the application was referred to The Coal Authority and the Council's Environmental Health Officer for comments.

5.9.4 The Coal Authority reviewed the submitted Coal Mining Risk Assessment. The Coal Authority concurs with the conclusions and recommendations of the land contamination risk assessment (LCRM: Stage 1 Risk Assessment & CMRA) and stated that should permission be granted conditions should be imposed requiring intrusive site investigations and appropriate remediation (if required)

- 5.9.5 The Environmental Health Officer previously reviewed the submitted land contamination risk assessment and noted that the submitted report advises a phase 2 investigation, it is therefore recommended that a condition be imposed requiring a phase 2 site investigation be undertaken with the findings submitted to the Local Planning Authority for consideration and approval of proposed remediation measures and validation report submitted once completed.
- 5.9.6 Subject to the imposition of relevant conditions the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.10 Biodiversity including Trees and Landscaping

Relevant Policies

- 5.10.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*
- *avoid or minimise adverse impacts on biodiversity and geodiversity; and*
 - *provide a net measurable gain in biodiversity'*

- 5.10.2 The NPPF also requires net gains in biodiversity (paragraph 180 d).

Considerations

- 5.10.3 The site previously comprised on dense scrub with self-set trees including large mature trees to the northern boundary. The site has recently been cleared with just the hedge on the site frontage facing Dunston Road retained.
- 5.10.4 The application submission is supported by an ecological appraisal which make recommendations for proposed ecological enhancement measures.
- 5.10.5 The Derbyshire Wildlife Trust were consulted on the proposal and previously confirmed on the basis of the information submitted that it is unlikely protected species will be impacted (with the exception of breeding birds) and some precautionary measures are recommended. The Trust previously noted that development will result in the loss of most of the habitat present on site and whilst it is not a habitat of principle importance (priority habitat) it does still have local biodiversity value. The landscaping plans indicate the hedge along the south-western boundary will be retained with new lengths of

hedgerow along the north and south of the development as part of the landscaping scheme. The new hedgerow will help off-set the loss of scrub habitat on site. The new hedgerow should be comprised of native tree and shrub species and the landscaping plans indicate the use of wildlife friendly planting.

- 5.10.6 The Derbyshire Wildlife Trust continue to say that due to the size of the site the biodiversity impacts are limited however the proposal will result in a small loss of biodiversity due to impacts on scrub, under scrub and loss of trees. Landscaping plans should therefore be implemented in full and it is recommended that conditions be imposed protecting breeding birds during construction, retention and protection of the hedgerow and for the submission of a landscape and biodiversity enhancement and management plan.
- 5.10.7 The Council's Tree Officer reviewed the scheme and raised no objections, noting that the land had previously been clear of vegetation and requesting a detailed landscaping condition be imposed on the decision. The landscape design should also include permeable surfacing materials, tree pit design and an underground modular system to demonstrate that the new tree and shrub planting has sufficient space and an adequate rooting soil volume to accommodate the species and plant numbers.
- 5.10.8 The Derbyshire Swift Conservation Project made comments on the scheme requesting a condition be imposed on the decision requiring the development is built with up to 8 internal nest bricks designed for swifts as a biodiversity enhancement.
- 5.10.9 The application is supported by a proposed landscaping and site boundary treatment plan however this does not go into extensive detail regarding the number of plants/species etc. It is recommended that a detailed landscaping plan be submitted with additional measures to enhance biodiversity in accordance with the information contained within the submitted appraisal. It is considered that there is scope for new planting within the site including potential for wildlife friendly shrubs to create a similar habitat structure including a range of plants such as climbers/hedging to provide enhanced botanical diversity and food sources for wildlife. Additional biodiversity enhancements such as bat bricks/roosts built within the house and swift bricks to encourage nesting birds should be included.

5.10.10 It is therefore recommended that a condition be imposed requiring the development to demonstrate a measurable net gain in biodiversity in accordance with the requirements of CLP16 and the NPPF.

5.11 Developer Contributions and Community Infrastructure Levy

5.11.1 Having regard to the nature of the application proposals the development comprises the creation of a new dwelling and is therefore CIL Liable.

5.11.2 The site the subject of the application lies within the low CIL zone and therefore the CIL Liability is calculated (using gross internal floor space and is index linked).

| | | A | | B | C | D | E |
|------------------|-------------------------------------|---|-------------------------|----------------------|------------------|------------------------------|------------|
| Development type | Proposed floor space (GIA in Sq. m) | Less Existing (Demolition or change of use) (GIA in Sq.m) | Net Area (GIA in Sq. m) | CIL Rate | Index permission | Index Charging schedule 2020 | CIL Charge |
| Residential (C3) | 529 | 0 | 529 | £50.00 (Medium Zone) | 332 | 288 | £30490.97 |

Calculation:

CIL Charge (E) is calculated as outlined below:

$$\frac{\text{Net Area (A)} \times \text{CIL Rate} \times \text{BCIS Tender Price Index (at date of permission) (C)}}{\text{BCIS Tender Price Index (at date of charging schedule) (D)}}$$

Therefore, the CIL charge liable for this application is as follows:

$$\frac{529 \times £50 \times 332}{288} = £30490.97$$

6.0 REPRESENTATIONS

6.1 The application has been publicised by neighbour notification letters site notice, 1 letter of representation has been received as a result

Impact on amenity of residents and conflict with existing commercial premises

- Impact on Simpsons Yard which benefits from an unrestricted industrial use including MOT and major vehicle repairs. The site has been improved in recent times under numerous planning consents for replacement buildings.

- Proposal will impact the amenity of future occupiers of the proposal and would not be acceptable to approve an unrestrained B2 use in such close proximity to existing dwellings in the interests of their residential amenity. Consequently, it cannot be acceptable for a residential development to be proposed next to a B2 use. I presume the current comments from your Environmental Health Officer will reflect the comments in 20/00808. Previous comments from EHO on this subject suggests a redesign of the floor layout to protect the rooms which would be most vulnerable to nuisance/disturbance.
- Previous reason for refusal should be considered and previously stated “development of this site adjacent to industrial premises would be detrimental to residential amenity which is contrary to policy EVR 23 (2) of the Replacement Chesterfield Borough Local Plan adopted June 2006.
- It would be unreasonable for the occupants and myself to have to deal with the obvious conflicts which would likely ensue.

6.2 Officer comments – the above comments have been noted

- impacts on amenity are - see section 5.6 of report.

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 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.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 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 to be 'sustainable development' to which the presumption in favour of the development applies.

- 8.2 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.

9.0 CONCLUSION

- 9.1 The application site is situated in a sustainable location and the proposal would introduce additional housing within the existing built up area of Dunston and therefore meets the strategic requirements of Local Plan policies CLP1, CLP2 CLP3 and the NPPF. The application submission presents a minor alteration to a recently approved scheme and is appropriately designed and would not cause adverse impacts on the visual amenity, residential amenity and character of the area. The previous approval remains alive and is a valid fall back position to take into account. Since the approval circumstances, guidance and policy has not changed such that a different conclusion could be reached. Subject to conditions the proposal will therefore accord with the provisions of policy Local Plan policies CLP14, CLP20 and CLP21. Adequate off-street parking is proposed as part of the development and secure cycle parking Subject to conditions the proposal therefore accords with the requirements of CLP20 and CLP22. Subject to the submission of further details controlled by condition covering land contamination, drainage, biodiversity and intrusive site investigations (and remediation works if required) the proposal is considered to accord with the principles of CLP13, CLP14, CLP16 and the wider National Planning Policy Framework.

10.0 RECOMMENDATION

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

Conditions

Standard time frame

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

Reason - *This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.*

Approved plans and documents

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (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).
- Site Location Plan, drawing number 20-028-LP01 Revision A (dated 26.04.2023)
 - Proposed Site Plan, drawing number 20-028-P02 Revision J (dated 22.05.2023)
 - Proposed Ground Floor Plan, drawing number 20-028-P03 Revision J (dated 22.05.2023)
 - Proposed First Floor Plan, drawing number 20-028-P04 Revision G (Dated 19.05.2023)
 - Proposed Second Floor Plan, drawing number 20-028-P05 Revision E (dated 19.05.2023)
 - Proposed Elevations Sheet 1, drawing number 20-028-P06 Revision G (dated 19.05.2023)
 - Proposed Elevations Sheet 2, drawing number 20-028-P07 Revision G (dated 19.05.2023)
 - Proposed Site Levels Plan, drawing number 20-028-P08 Revision G (dated 22.05.2023)
 - Proposed Landscaping & Site Boundary Treatment Plan, drawing number 20-028-P09 Revision G (dated 19.05.2023)
 - Proposed Site Access Visibility Splays, drawing number 20-028-P10 Revision C (dated 22.05.2023)

Supporting documents

- Design and Access Statement Revision B, produced by Brightman Clarke Architects (dated May 2023)
- Supporting Planning Statement, Revised scheme, produced by Stainton Planning Urban & Rural Consultancy (dated May 2023)
- Ecological Appraisal, produced by Armstrong Ecology Ltd (dated July 2020)
- LCRM (Land Contamination Risk Management): Stage 1 Risk Assessment & CMRA, Project reference GUK-0221-03, Dunston Road, Chesterfield produced by GroundSmiths Geotechnical Engineers (report dated 09.02.2021)

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.

Pre-commencement – intrusive site investigations

3. No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in accordance with the requirements of CLP14 and the NPPF.

Land stability – remediation

4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason – In accordance with the requirements of CLP14 and the NPPF.

Pre-commencement – Land contamination

5. a) Prior to work commencing on site, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;
 - b) Prior to works commencing on site, detailed proposals in line with current best practice for the removal, containment or

otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;

c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;

d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;

e) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';

f) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason - *This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with CLP14*

Highways – pre-commencement site storage/compound

6. At the commencement of operations on site (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason – *To ensure adequate space is retained for site storage during the construction period in accordance with CLP22.*

Hours of construction

7. No construction or demolition 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 1700 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

Reason - To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with CLP20 and CLP14

Noise mitigation

8. a) No development above floor-slab/D.P.C level shall take place until a noise impact assessment including any noise mitigation measures shall be submitted to and approved by the Local Planning Authority. The noise assessment should demonstrate that the design of the glazing, ventilation, wall and roof structures ensure sufficient sound insulation for the occupants of the building. The agreed details shall be implemented as part of the development.
- b) Prior to the first occupation of the hereby permitted development, compliance testing shall be undertaken and results shall be submitted to the Local Planning Authority for written approval. The approved noise mitigation measures shall be retained in perpetuity for the life of the development.

Reason - To safeguard the privacy and amenities of the future occupiers in accordance with CLP20 and CLP14

Drainage - surface water

9. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
- i. evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
 - ii. ii) the means of discharging to the public sewer network at a rate not to exceed 3.5 litres per second.

Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage in accordance with CLP13.

Drainage – separate foul and surface

10. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems shall extend to the points of discharge to be agreed.

Reason - In the interest of satisfactory and sustainable drainage and in accordance with CLP13

Approval of Materials

11. Precise specifications or samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

Reason - To ensure a satisfactory external appearance of the development in accordance with CLP20 and CLP22 of the Local Plan

Biodiversity

12. No development above floor-slab/D.P.C level shall take place until A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
- a) Description and location of features to be created, planted, enhanced and managed.
 - b) Aims and objectives of management.
 - d) Appropriate management methods and practices to achieve aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
 - g) Details of the body or organization responsible for implementation of the plan.

h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

i) Details of internal bird and bat boxes, (including swift boxes, specifications, installation guidance and numbers)

The approved plan will be implemented in accordance with the approved details and maintained thereafter.

Reason: 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 190 of the National Planning Policy Framework.

Landscaping

13. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; 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. Details shall include:

- a) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- b) location, type and materials to be used for hard landscaping including specifications for:
 - I. permeable paving
 - II. tree pit design
 - III. underground modular systems
 - IV. Sustainable urban drainage integration
- c) a schedule detailing sizes and numbers/densities of all proposed trees/plants;
- d) specifications for operations associated with plant establishment and maintenance that are compliant with best practise;

The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner.

All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason - *Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Local Plan policies CLP20 and CLP16.*

Protection of hedgerows

14. The existing hedgerow to be retained identified on drawing 'Proposed Landscaping & Site Boundary Treatment plan drawing number 20-028-P09 Revision D' should be protected (in accordance with BS5837:2012 as appropriate) from damage during construction by the erection of adequate temporary fencing prior to the commencement of groundworks which should remain in place for the duration of construction.

Reason - *In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance its setting within the immediate locality.*

Retention of soft landscaping

15. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason- *To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with CLP20 and CLP16*

Water efficiency

16. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason - *To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 153 of the National Planning Policy Framework.*

Parking provision

17. The development, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved application drawings for the parking and manoeuvring of residents 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 providing adequate off-street parking provision in accordance with CLP20 and CLP22.*

Access/visibility splays –

18. The proposed means of vehicular access hereby approved shall be laid out, hard surfaced and drained prior to occupation of the first dwelling. Visibility splays shall be provided in accordance with drawing 'Proposed Site Access Visibility Splays, drawing number 20-028-P10 Revision C' with a minimum visibility splay of 2.4m x 47m in each direction. The approved visibility splays shall be kept clear of any obstruction above a height of 1m and retained thereafter.

Reason - To ensure that a suitable form of access is made available to serve the development in accordance with Policies CLP20 and 22 of the Adopted Local Plan.

Lighting

19. All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties. The applicant shall submit details of all the lights they intend to use as part of this development and shall seek written approval from the local planning authority prior to the installation of lighting on site.

Reason – To protect residential amenity through construction works in accordance with policy CLP14 of the Adopted Local Plan

Informative 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. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
3. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).
4. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential

financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including 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

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, digging of 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.

Property-specific summary information on past, current and future coal mining activity can be obtained from:

www.groundstability.com or a similar service provider.

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

5. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
6. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/devel

development_control/vehicular_access/default.asp , e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190

7. 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.
8. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
9. To ensure that breeding birds are protected from harm we advise that a condition should be imposed requiring that "No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period. If any active nests are discovered, then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest
10. When you carry out the work, 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 under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
11. In line with conditions requested by Yorkshire Water - The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal.
 - a) Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to

demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.

- b) The developer and LPA are strongly advised to seek comments on surface water disposal from other drainage bodies as further restrictions may be imposed.
- c) As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal.
- d) As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public at a restricted rate of 3.5 litres per second.

12. In accordance with condition 12 above 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.

| Species | Potential Enhancement Measure | Notes |
|--------------------|--|---|
| Wildflowers | <p>Native wildflower meadow areas: as an alternative to amenity grassland.</p> <p>Wildflower verges.</p> | <p>Wildflower meadow can be added where there is grassed verge / communal garden space as well as within residential gardens or as part of wider landscaping schemes. Advice for creating and maintaining a wild patch is available on the Wildlife Trust website and through Flora Locale.</p> |
| Birds | <p>Bird Boxes and other nesting features: (such as stone ledges and wooden cladding).</p> | <p>Particularly where adjoining natural areas such as woodland, areas of priority habitat and the river and canal</p> |

| | | |
|-----------------------------|--|--|
| | <p>Native species planting and boundary features: Berry and seed producing shrubs are particularly beneficial for wildlife and include: Barberry, Blackthorn, Common Dogwood, Guelder Rose Hawthorn and Spindle berry.</p> | <p>environment. For guidance on installing bird boxes including minimum height see: https://www.bto.org/how-you-can-help/providing-birds/putting-nest-boxes-birds/putting-nest-box Generally, boxes should be sheltered from prevailing wind, rain and strong sunlight. Check local records (Magic portal and DWT advice) for target species.</p> |
| <p>Invertebrates</p> | <p>Bug hotels and log piles with stones: particularly near ponds. South facing banks: with some bare ground. Rough or natural stone walls with holes for invertebrates to use. Brown roofs with a range of substrates these are particularly recommended on brownfield sites where open mosaic habitat may have been lost. The substrate does not have to cover the entire roof.</p> | <p>Examples of living roof projects are available on the Buglife web page: https://www.buglife.org.uk/our-work/living-roof-projects/</p> |