

## Item 2

Case Officer: C Wright

Application No: CHE/23/00619/FUL

### **CONSTRUCTION OF 1 PAIR OF SEMI-DETACHED HOUSES ON LAND ADJACENT TO 5 KING STREET SOUTH, CHESTERFIELD FOR MRS JUNE HIBBERT.**

Committee Date: 19.02.2024

#### **1.0 CONSULTATION RESPONSES**

Ward Members	No representations received
Design Services Drainage	No objections, subject to conditions regarding soakaways, drainage and surface water drainage.
Strategic Planning	No objection to principle, but request inclusion of conditions
Local Highways Authority	No objection, subject to condition.
Urban Design Officer	Amendments requested.
Derbyshire Wildlife Trust	No objection, subject to condition.
Environmental Health	No objection, subject to conditions regarding hours of construction.
Representations	2 objection letters received – see report.

#### **2.0 THE SITE**

- 2.1 The site subject of this application is situated on land adjacent to no.5 King Street South. The land is currently overgrown with no buildings on it, but it previously had a wooden shed on it. The site is in a residential area and is surrounded by housing on all sides.
- 2.2 The area is dominated by red brick two storey houses designed with terraced-style proportions, although there is some variation on the street including render on some of the dwellings. The dwellings

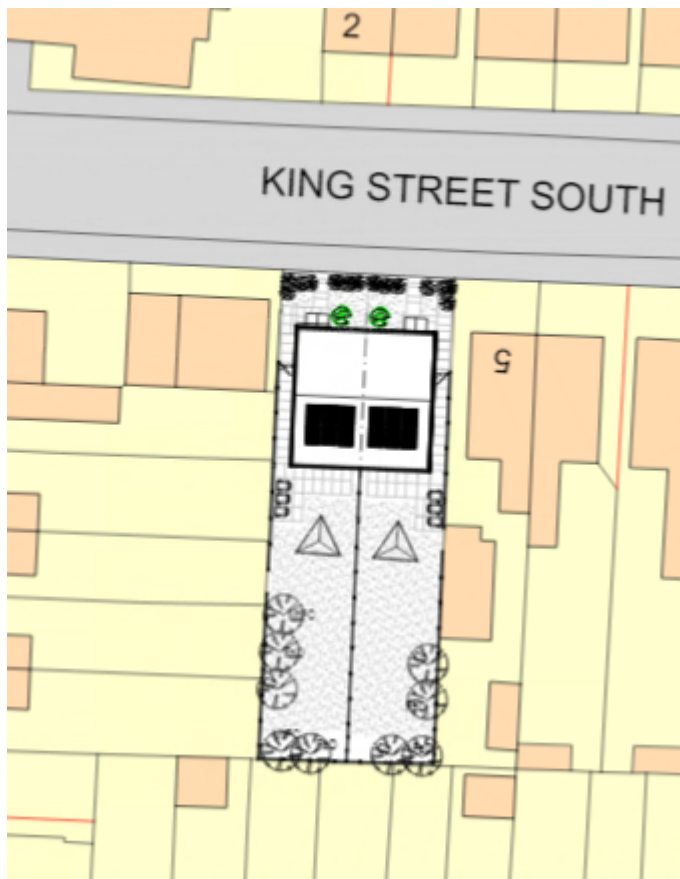
have small front gardens with stone or brick walls to the front and the area is dominated by on-street parking.

### 3.0 **SITE HISTORY**

3.1 No relevant applications.

### 4.0 **THE PROPOSAL**

4.1 The application seeks consent for the erection of two semi-detached dwellings. The dwellings would include a pitched roof with a canopy over the front door. They would have a kitchen/diner/lounge at ground floor and two bedrooms at first floor. The building would be 8.8m deep, 8.8m wide and 7.2m in height and would be built out of mixed red brick and grey concrete tiles. The dwellings would have rear gardens that are over 80sqm in size.



- 4.2 The houses also have bin stores to the rear, solar panels on the rear roofs and soft landscaping to the front and rear of the site as well as 1.8m high wooden fences surrounding the rear garden.
- 4.3 The scheme has been amended during the application process to bring the dwellings forward, so they are in-line with the no.5. This has led to the removal of a proposed parking space.

## **5.0 PLANNING POLICY**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

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

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

## **5.3 National Planning Policy Framework 2023**

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

## **5.4 Supplementary Planning Documents**

- Successful Places' Residential Design Guide

## **6.0 CONSIDERATION**

## **6.1 Principle of Development**

- 6.1.1 The application site is within the built-up area and within walking distance of a good range of key facilities along Derby Road. Although technically not previously developed land according to the NPPF definition (which excludes 'land in built-up areas such as residential gardens') the principle of residential development on this site would accord with policies CLP1 and CLP2.
- 6.1.2 Overall, the proposal would not prejudice the local plan's spatial strategy and strategic objectives and is within the built up area, therefore broadly accords with the strategy of 'concentration'. The proposal would be broadly consistent with the requirements of the NPPF. On this basis there is no objection in principle to this proposal, subject to conditions.

## **6.2 Design and Appearance of the Proposal**

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 6.2.2 The existing site is vacant and overgrown. The surrounding area is a densely built street with semi detached dwellings set on a uniform building line and front walls. The proposed houses would be comparable to the neighbouring dwellings, but with a slight step down in height from neighbouring dwellings to the east. The front windows have been altered during the application to make them bigger, which ensures that they're more in-keeping with the surrounding style of windows.
- 6.2.3 The houses have been moved forwards during the application to ensure they are inline with the neighbouring houses to the east and this also removes a proposed parking space, which was considered to be out of character. The choice of brick and tile are considered to be generally in-keeping with style of the predominant local character.
- 6.2.4 The proposal is considered to respect the character and setting of the site. In this regard it is considered to have an acceptable impact on the character of the surrounding area. The proposal

therefore does accord with the provisions of policy Local Plan policy CLP20 and should be approved in this regard, subject to condition.

### **6.3 Residential Amenity**

- 6.3.1 Local Plan policies CLP14 and CLP20 require development to have an acceptable impact on the amenity of users and neighbours.
- 6.3.2 In regard overshadowing the dwelling would not lead to a significant impact to the dwellings to the north, south or east. It has been moved forwards, which has reduced the potential for overshadowing to the neighbouring dwelling to the east at no.5, with its yard and windows potentially impacted by the scheme.
- 6.3.3 In terms of massing the dwelling is comparable to those around it, in a densely built residential street, and this is acceptable.
- 6.3.4 In terms of overlooking the dwelling does not have any windows that significantly overlook the neighbouring dwellings, in comparison to the existing character of the surrounding units.
- 6.3.5 The units will have gardens that are over 80 sqm in size, which is acceptable for a 2 bedroom dwelling.
- 6.3.6 Due to the densely built nature of the area, a condition is required to restrict future building on site to ensure no windows or extensions are built which could impact surrounding residents.
- 6.3.7 The proposal includes reasonable levels of outlook and an acceptable sized amenity space for dwellings of this size. The proposal is acceptable in terms of residential amenity and is in line with policy CLP14, as well as the revised NPPF.

### **6.4 Flood Risk, Drainage and Stability of River Bank**

- 6.4.1 The site is in a low risk area in relation to risk of flooding. CBC's drainage team have been consulted on the scheme however any new connection will require prior approval from Yorkshire Water. The site should utilise separate systems of foul and surface water and further information is required in regards the proposed use of soakaways. This ensures that the proposal is acceptable in relation to Policy CLP13 of the Local Plan.

## **6.5 Highways Safety**

6.5.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety. The highways authority has been consulted and did not object to the scheme, subject to condition. Their comments were provided under the previous iteration of the development, which included a car parking space to the front. Their comments stated that:

*The application proposes two semi-detached dwellings served via an existing vehicular access off King Street South. The proposed development includes the provision of two appropriately sized on site parking spaces which is in accordance with parking guidance for the scale of development. Should the development lead to an increase in on street parking it is considered that this would potentially be inconvenient but not necessarily a highway safety issue which would warrant an objection.*

6.5.2 The scheme has been altered to remove the parking spaces, which would then mean that any vehicles would be added to the street for on-street parking. The existing situation in the area is dominated by street parking and the addition of a couple more vehicles onto the street may add pressure onto the local roads, but this wouldn't be a highway safety issue as it would be up to local residents to park safely and local highway services to deal with inconsiderate parking.

6.5.3 It is acknowledged that the construction phase of the development could cause some level of inconvenience and a construction management plan has been requested to help control issues such as construction worker parking and deliveries, as well as requesting details about materials' storage and facilities on site.

6.5.4 The application will include no off-street parking spaces, which is considered to be in line with the local character, therefore on this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan, subject to condition.

## **6.6 Biodiversity including trees and landscaping**

6.6.1 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 180 requires decisions to protect and

enhance sites of biodiversity and paragraph 186 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.6.2 Derbyshire Wildlife Trust was consulted on the proposal and provided these comments:

*We have checked our Biological Records Database and can confirm the following:*

- Hedgehogs and sparrows are recorded locally*
- No notable habitats have been recorded to date on or adjacent to site*
- The site is not covered by a statutory or non-statutory nature conservation designation.*

*Based on the proposals and the information submitted, we advise that the application is considered low impact and unlikely to have a substantive adverse effect on biodiversity. We do not consider ecological surveys or a biodiversity metric necessary or proportionate in this instance. This advice is based on current biodiversity net gain guidelines, with additional clarity regarding the statutory requirements for small sites to be released in April 2024.*

*The existing habitat has the potential to support small mammals, such as hedgehogs, and nesting birds. We consider the following conditions suitable to safeguard these species. We welcome the proposed tree planting, and proposed further biodiversity enhancements below.*

#### *Nesting Birds*

*No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.*

#### *Hedgehog Precautionary Measures*

*Site clearance shall be undertaken in a manner by which to safeguard hedgehogs. All leaf piles, dense vegetation and other general debris that could be used for shelter shall be carefully cleared by hand to a location such as a skip, other container or raised pallets. This shall be undertaken prior to machinery entering*

*site and avoiding the core hibernation period (November-February). If a hedgehog is discovered during clearance it shall be moved immediately and carefully with gloved hands to an area of shelter such as beneath adjacent hedgerow/bushes. A short statement of compliance shall be submitted to the LPA upon completion of clearance works to discharge this condition.*

### *Biodiversity Enhancement*

*Prior to the completion of development, the following biodiversity enhancement measures shall be implemented:*

- 1x Integral bat box at eaves level (Favouring southern elevations)*
- 1x Integral universal bird brick at eaves level (Avoiding southern elevations)*
- Native and wildlife attracting planting, where applicable*

*Evidence that these measures have been implemented should be submitted to the Local Planning Authority for approval within one month of completion of development.*

- 6.6.3 The site is an overgrown vacant piece of land which is covered by dense bramble and scrub, as well as an area of hardstanding from a small building previously positioned on site.
- 6.6.4 A biodiversity impact assessment has been completed of the site and an assessment of the proposed landscaping post development, which included nine small trees to the rear and ornamental shrubs to the front. This was able to show a biodiversity net gain on site of 0.0297 biodiversity units.
- 6.6.5 Limited details have been provided of the shrubs, trees and planting methods, so it is therefore considered reasonable and necessary to impose a condition for measures to secure further information on the biodiversity net gain and landscaping details for the site. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

## **6.7 Environmental Health - Land Condition / Contamination**

- 6.7.1 Land condition and contamination need to be considered having regard to policy CLP14 of the Core Strategy.
- 6.7.2 The Council's Environmental Health team has reviewed the proposals and commented that they have no objections to the plans. It has been considered that conditions should be imposed placing restrictions on the hours of construction in the interests of



protecting the amenity of neighbouring properties; the workers on site would be restricted with the working hours to be 8am-6pm Monday to Friday, 9am-1pm on Saturdays and no work on Sundays or Bank holidays. These restrictions will assist in limiting the noise from the site to normal working hours and reduce impacts in the interests of the amenity of local residents.

6.7.4 In respect of potential Coal Mining Risk, the site the subject of the application is situated within a low risk area and an informative will be added to the decision.

## 6.8 Community Infrastructure Levy

6.8.1 Having regards to the nature of the application proposals the development comprises the creation of new residential accommodation and the development is therefore CIL Liable.

6.8.2 The site the subject of the application lies within the medium CIL zone and therefore the CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

			A	B	C	D	E
Plot	Proposed Floor space (GIA in Sq.m)	Existing Floor space	Net Area (GIA in Sq.m)	CIL Rate	Index permission	Index charging schedule	CIL Charge
Plot 1/2	128	0	128	£50	381	288	£8,467

$$\frac{\text{Net Area (A) x CIL Rate (B) x BCIS Tender Price Index}}{\text{BCIS Tender Price Index (at date of Charging Schedule) (D)}} = \text{CIL Charge (E)}$$

$$\frac{128 \times 50 \times 381}{288} = \mathbf{£8,467.00}$$

## 7.0 REPRESENTATIONS

7.1 2 objection letters received in regards design, massing, construction traffic. With further comments regarding the potential

disruption caused by the installing of services on site, the protection of the existing boundaries on site and a query regarding proposed biodiversity on site. Reference is also made to the set back of the houses imposing on the properties to the rear.

7.2 Officer comment – The issues such as construction traffic and biodiversity have been considered in the above report and are dealt with by condition. The issue of the existing rear boundaries is a matter between residents, as changes are likely to be permitted development, as long as they don't build these above 2m in height (to the rear). The installation of the services is not specifically a planning matter, as this is a densely built area with existing drainage, water, gas, electricity, internet and phone infrastructure and whilst there may be some disruption it is a temporary situation. The issue referred to regarding the impact on residents to the rear has been helped by moving the dwellings further forwards on the plot.

## **8.0 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.

## **9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the 2023 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.

9.2 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.

## 10.0 **CONCLUSION**

10.1 Overall subject to conditions the proposal is considered to be acceptable in accordance with policies CLP1, CLP2, CLP13, CLP14, CLP16, CLP20 and CLP22 of the Local Plan, subject to relevant conditions.

## 11.0 **RECOMMENDATION**

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

### 11.2 **Conditions**

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

**Reason** - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans 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 (Rev B)
  - Proposed Floor plans (Rev C)
  - Fencing/bin store details (Rev A)
  - Proposed elevations (Rev C)
  - Materials specification document

**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. No development above floor-slab/D.P.C level shall take place until a scheme (including a programme of implementation and maintenance) to demonstrate a net measurable gain in biodiversity through the development, shall have been submitted to include:
  - a) a scaled plan showing the trees and plants to be planted:

- b) a scaled plan showing the trees and plants to be removed:
- c) proposed hardstanding and boundary treatment (including details of variations to levels on site):
- d) a schedule detailing species (to encourage wildlife), sizes and numbers of all proposed trees/plants
- e) Sufficient specification to ensure successful establishment and survival of new planting.
- f) Details of the types of bird boxes, bat boxes and bee bricks that are proposed.
- g) Planting method of the trees and shrubs.

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 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 net measurable gain shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.

**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 175 of the National Planning Policy Framework

4. Work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

**Reason:** In the interests of residential amenity and CLP14

5. 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.

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:** In regards highway safety and policies CLP20 and CLP22.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

**Reason:** In the interests of the amenity of occupants of adjoining dwellings, CLP14 and CLP20

8. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

**Reason** - In the interest of satisfactory and sustainable drainage in accordance with Policy CLP13 of the Adopted Local Plan.

9. The development shall include a scheme for the provision of surface water run-off on site, either via the use of a SUDs channel or permeable block paving. If this is not possible the applicant is required to contact the Local Planning Authority to discuss alternative options; and then not complete works until an alternative solution has been agreed in writing by the LPA. The scheme shall incorporate sustainable drainage principles and shall be implemented in full. The submitted information shall include full details of the infiltration results and proposed location of the soakaway on site.

**Reason:** To prevent the increased risk of flooding, in relation to policy CLP13.

10. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning

Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.

- Parking of vehicles of site operatives and visitors
- Routes for construction traffic, including abnormal loads/cranes etc
- Hours of operation
- Method of prevention of debris being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Arrangements for turning vehicles

**Reason:** in the interests of highway safety and policies CLP20 and CLP22

### **11.3 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. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
3. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also 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. 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 - Place 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  
<https://www.derbyshire.gov.uk/transport-roads/roads-traffic/licencesenforcements/vehicular-access/vehicle-accesses-crossovers-and-droppedkerbs.aspx>  
E-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or  
Telephone Call Derbyshire on 01629 533190.