

## ITEM 2

### **VARIATION OF CONDITION 1 (APPROVED PLANS) OF CHE/21/00131/REM - ERECTION OF DETACHED DWELLING INCLUDING ACCESS AT LAND BETWEEN 34 AND 38 LAKE VIEW AVENUE, WALTON, CHESTERFIELD, S40 3DR FOR MR LONG**

Local Plan: Unallocated, within the built up area

#### **1.0 CONSULTATIONS**

Ward Members No comments received

Representations 6 representations received in total – see report

#### **2.0 THE SITE**

2.1 The site subject of this application is located on Lake View Avenue, situated at the turning head of the cul-de-sac. The plot is triangular in shape and previously formed part of the garden curtilage of No 38 Lake View Avenue. The application site is within the defined Built up Area and is unallocated on the Chesterfield Borough Council adopted local plan policies map 2018-2035



Extract of submitted location plan © Aerial photograph Google maps ©

2.2 The site and surrounding properties were originally sold as private self-build plots by Chesterfield Borough Council. The site subject of this application was known as 'Plot 59' and was never developed, instead bought by the owners of No 38 Lake View to extend the garden curtilage. The immediate streetscene surrounding the site predominately comprises of single storey dwellings with two storeys evident at No 47 Lake View Avenue. The application site is located

between properties on Raneld Mount and Sandiway, which are more varied in character comprising of properties with multiple storeys (1.5 and 2) which are visible from the streetscene. It is noted that neighbour representations state that describing the properties as 1.5 and 2 storey is incorrect. A storey is a descriptive term to label the number of levels in a property and is considered to be appropriate in this context.

### 2.3

The plot has a narrow frontage facing on Lake View Avenue consists of a gated access. The existing boundary treatments are varied, including a conifer hedge to the eastern boundary, timber fence to the south boundary and a retaining brick wall to the north/north western boundary. The land levels within the site increase towards the eastern boundary and as such the plot is elevated above No 34 Lake View Avenue to the West.



### 2.4

Outline consent was previously granted in 2016 (see application CHE/16/00019/OUT) for a single chalet bungalow with all matters reserved, the deadline for the submission of the reserved matters expired in 2019. A new outline application with all matters reserved except access was submitted in 2019 application reference CHE/19/00088/OUT which was granted April 2019. The subsequent reserved matters application CHE/21/00131/REM was granted

conditional approval by planning committee in 2023 (see site history below)

### 3.0 **SITE HISTORY**

- 3.1 CHE/21/00131/REM - Approval of reserved matters of CHE/19/00088/OUT - erection of detached dwelling including access – **conditional permission (09.01.2023)**
- 3.2 CHE/19/00088/OUT - Outline application for one residential property including access - **conditional permission (24.04.2019)**
- 3.3 CHE/16/00019/OUT - Outline application for residential development of a single chalet bungalow with all matters reserved – **conditional permission (31.03.2016)**
- 3.4 CHE/596/247 – Construction of a greenhouse/conservatory at 38 Lake View Avenue – **conditional permission (28.06.1996)**

### **RELEVANT SURROUNDING SITE HISTORY**

- 3.5 CHE/23/00357/FUL- Alterations to existing conservatory roof. Detached garage to front drive including associated alterations to levels – **conditional permission (28.11.2023)**

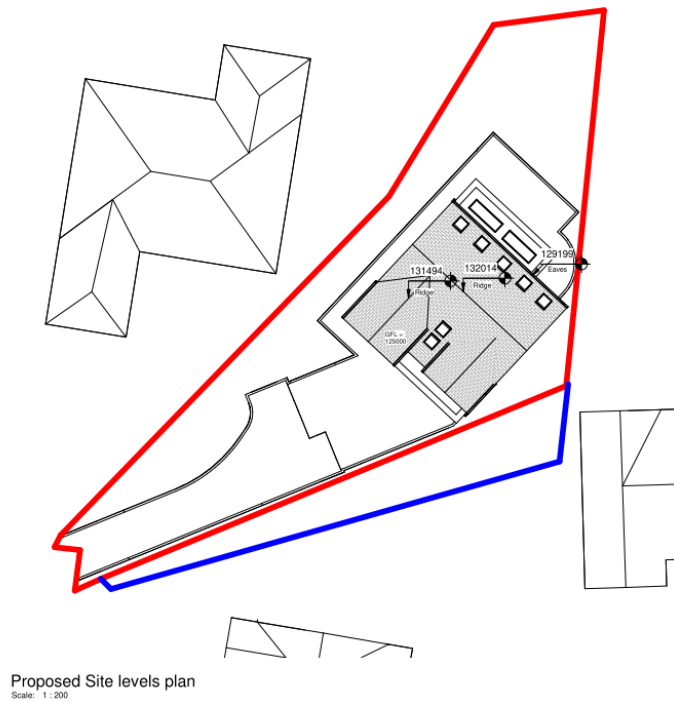
### 4.0 **THE PROPOSAL**

- 4.1 The application is made under Section 73 of the Town and Country Planning Act 1990 (As Amended) for the variation of condition 1 (approved plan list) of application CHE/21/00131/REM. A brief comparative summary of the previously approved and proposed drawings is set out below.

Previously approved site plan



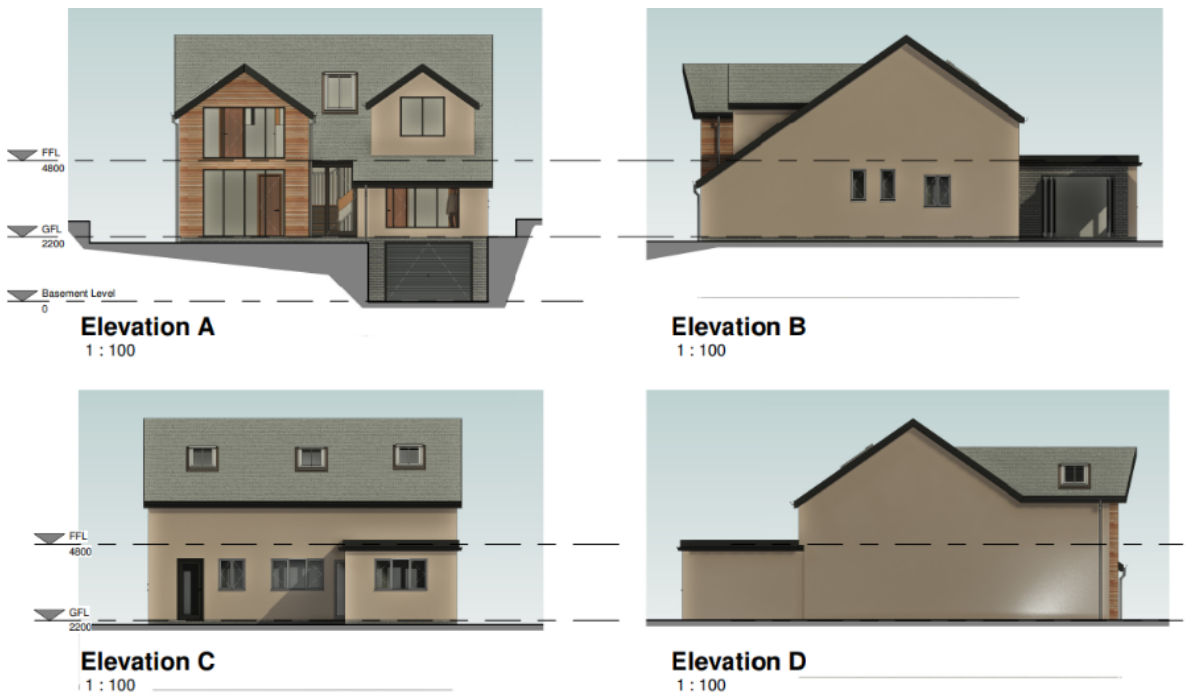
## Proposed site plan



4.2

The footprint of the proposed dwelling reflects the previously approved position. The main alterations to the site plan are amendments to the parking area to account for the removal of the below ground garage space. Alterations are proposed to the hardsurfacing and creation of a patio space to the rear of the property wrapping around the side of the house and the rear. To the rear of the property the single storey structure has been amended with a reduced rearwards projection and increase in width.

## Previously approved elevational plans



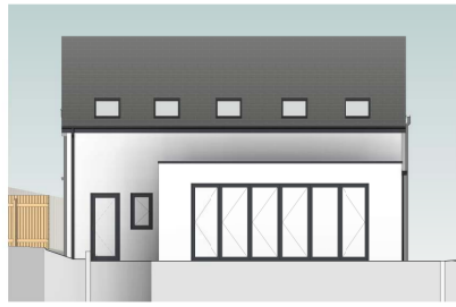
## Proposed elevations



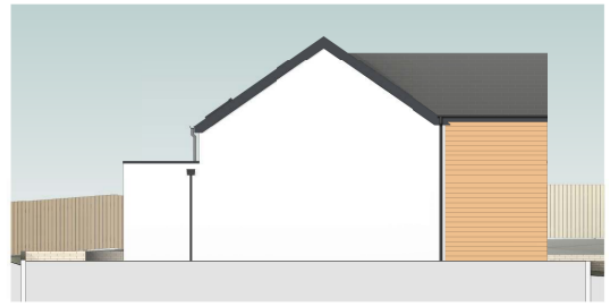
Front Elevation  
Scale: 1:50



Side Elevation 1  
Scale: 1:50



Back Elevation  
Scale: 1:50

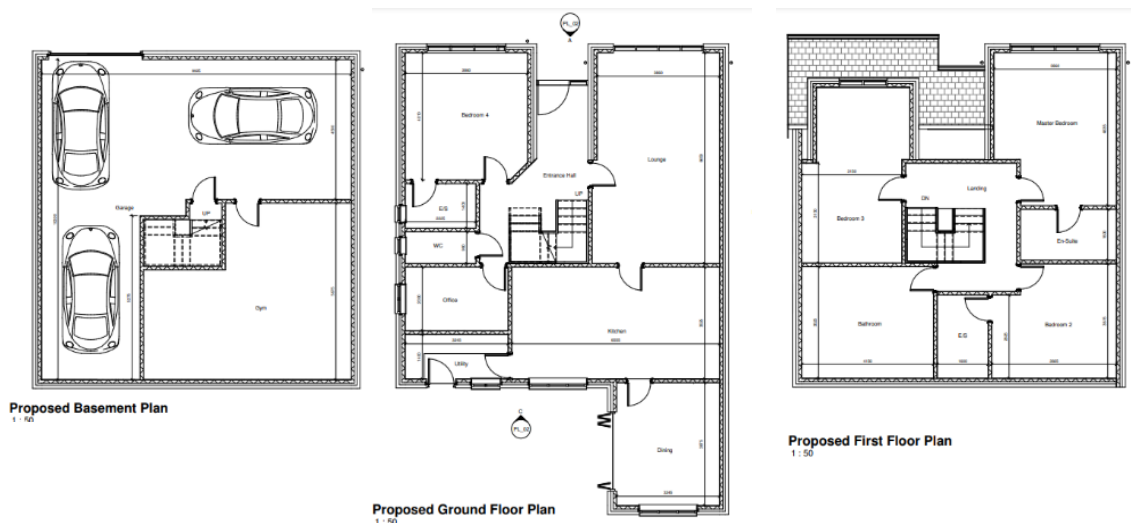


Side Elevation 2  
Scale: 1:50

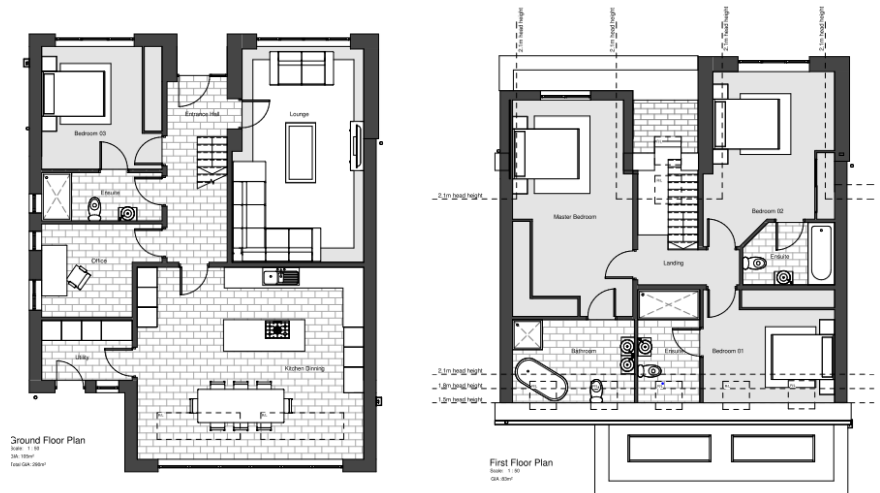
4.3 The proposed elevations have removed the dormer to be replaced with subservient intersecting dual pitched roof form with flat roof design at ground floor. Alterations are also proposed to the fenestration design and increase in the number of roof lights. To the rear the single storey structure has a smaller rearwards projection and increase in width with bi-fold doors.

4.4 The submitted elevations indicated white render and timber cladding. Concerns were previously raised regarding the use of render which is not considered to be appropriate in this context. A materials condition was previously recommended for external materials to be agreed.

### Previously approved floor plans



## Proposed floor plans



4.5 The revised proposal extends over two floors and is approximately 241sqm, the previously approved plans extended to 303sqm. The first floor of the dwelling is very similar in layout to the previously approved scheme, with three bedrooms, one bathroom and two en-suites. The ground floor retains a lounge and fourth bedroom with ensuite and altered arrangement of the study and utility. The previously approved scheme incorporated a kitchen with separate dining room, the revised scheme proposes an open plan kitchen/dining room utilising the single storey structure to the rear.

4.6 The proposal will provide an acceptable level private amenity space which exceeds the minimum recommendations as set out by the adopted Supplementary Planning Document 'Successful Places'.

## **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 (Strategic Policy)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment

- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel

### **Supplementary Planning Documents**

- Successful Places A Guide to Sustainable Housing Layout and Design

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

- Part 2. Achieving sustainable development
- Part 5. Delivering a sufficient supply of homes
- Part 8. Promoting healthy and safe communities
- Part 9. promoting sustainable transport
- Part 12. Achieving well-designed and beautiful places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

### **5.4 Principle of Development**

- 5.4.1 The principle of development was established by the earlier permission, which concluded that the development was acceptable. In considering a Section 73 submission, the Planning Act only allows the Local Planning Authority to consider the issue of the condition. It cannot re-open the principle of the development, i.e. the previously approved dwelling. The sole issue in relation to this application is therefore to consider the implications of the alterations to the previously approved plans and to assess the impact of the changes. A Section 73 application will however result in the requirement to issue a new planning permission.

### **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 site comprises of a triangular shaped plot with a narrow frontage to the public highway. In response to the constraints of the site the dwelling from the public highway. The revised proposal is formed of a two dual pitched roof with two intersecting gables to the principal elevation.
- 5.5.3 The surrounding streetscene is predominately characterised by single storey bungalows however properties with two storeys are visible in the immediate vicinity (No 47 and 15 Sandiway). It is acknowledged that the proposal will introduce a development which is two storeys in character. The previously approved plans had a pitched roof dormer to the principal elevation above the proposed lower ground floor garage to create a degree of visual subservience. The revised plans propose the removal of the lower ground floor and alterations to the dormer to create a second intersecting pitched roof gable set back from the principle gable.
- 5.5.4 It is necessary to acknowledge that the principle of a dwelling with windows over two floors/storeys was previously deemed to be acceptable at planning committee. The nature of the site with narrow frontage and notable set back of the proposed dwelling is considered to reduce the visibility of the proposed dwelling within the streetscene. In planning terms it is considered that the site can accommodate a dwelling of this scale and would not result in significant adverse impact on the character and appearance of the streetscene.
- 5.5.5 Proposed materials incorporate timber cladding and indicate render to the remaining elevations. As previously stated render is not a feature of the surrounding streetscene and it is considered that render is not acceptable in this context. It is recommended that a condition be imposed requiring the submission of proposed materials for consideration and it is suggested that either a brick or stone should be specified to reflect the local vernacular.
- 5.5.6 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 Neighbouring Residential Amenity**

### **Relevant Policies**

- 5.6.1 Local Plan policy CLP14 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 To assess the impact of the proposal on the residential amenity of the neighbours, further consideration is required of the impacts on the immediate boundary sharing neighbours No's 34 and 38 Lake View Avenue, No 15 Sandiway and No 11 Raneld Mount.

#### No 34 Lake View Avenue

- 5.6.4 No 34 is a detached single storey dwelling situated to the north west of the proposed dwelling. The dwelling is served by habitable room windows which are angled towards the application site. Existing boundary treatments between the site and No 34 comprise of a brick retaining wall due to the level changes with hedging/trees within the application site adjacent to the boundary, the hedging has cut back since the previous approval (see photos below).



- 5.6.5 The siting and orientation of the dwelling was previously approved under application CHE/21/00131/REM with changes made to the angle of the property to prevent overlooking from windows to the principle elevation. No windows are proposed to the side (north west) elevation facing towards No 34. It was previously accepted that the proposed dwelling will be elevated above the ground level of No 34 and the structure will be two storey in height closest to the boundary and it was considered on balance to be acceptable. The

alterations to the single storey structure to the rear will reduce the massing of the proposal due to a reduction in the rearwards projection of the previously approved single storey element of the scheme. The layout serves to address concerns raised regarding the impacts and on balance it is considered that the proposal will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted.

#### No 38 Lake View Avenue

- 5.6.6 No 38 is a detached single storey dwelling situated to the south of the proposal. Existing boundary treatments comprises of a large brick wall and timber fence with concrete panels. The submitted proposed plans orientate the principal elevation of the proposed dwelling to the south west which faces towards the side elevation of No 38 at an angle. An acceptable separation distance was previously determined to exist between the side elevation of No 38 and the proposed dwelling such that the proposal will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted.

#### No 15 Sandiway

- 5.6.7 No 15 Sandiway is a split level two storey dwelling situated to the south east of the proposed dwelling. A mature hedge and brick wall forms the boundary with the application site. It is noted that since the previous approval consent has been granted for works to the dwelling under application CHE/23/00357/FUL. Which includes a single storey rear extension, with bi-fold doors to the north and windows to each side elevation (east and west). Works to construct the extension have already been undertaken on site.





- 5.6.8 As part of application CHE/21/00131/REM the scheme was revised to remove first floor windows in the side/rear elevation to prevent overlooking with roof lights only in the rear roof plane to prevent overlooking. The previously approved scheme angled the footprint of the proposal to the south west away from the rear elevation of No 15 to limit potential overshadowing impacts. The layout was deemed to be acceptable and the revised plans subject of this application reflect the previous approval. The main change proposed to the rear is the alteration to the single storey structure, reducing the rearwards projection and increasing the width across the rear of the dwelling. It was previously acknowledged that the proposal will result in a degree of overshadowing at the sun sets in the west the proposal, on balance it was determined that the scheme will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted. The changes proposed as part of the current application do not alter the previously approved scheme substantially to warrant a refusal.

#### No 11 Raneld Mount.

- 5.6.9 No 11 is a detached split level dwelling situated to the north of the application site. The previously approved plans removed first floor windows to the side elevation and incorporated roof lights in the rear roof plane only. An acceptable separation distance exists between the proposed dwelling and existing windows serving No 11. The proposal will therefore not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted.

#### Impacts on other surrounding neighbours

- 5.6.10 The revised proposal will also not adversely impact on the other neighbouring residents on Raneld Mount, Sandiway and Lake View Avenue in terms of loss of light or privacy such that refusal of the case is warranted.

- 5.6.11 A condition controlling the hours of construction has already been imposed as part of the outline in the interests of the amenity of the surrounding residential occupants.
- 5.6.12 Having consideration for the observations above, the revised plans are considered to be acceptable and the scheme will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

## **5.7 Highways Safety, Parking 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*

### **Considerations**

- 5.7.2 The Local Highways Authority raised no objections to the application in principle at outline stage which included consideration of access and made recommendations for conditions, at reserved matters stage the Highways Authority were consulted and had no further comments to make.
- 5.7.3 The revised plans propose the removal of the below ground basement/parking with parking to be provided on the driveway. The extent of hardstanding has been increased to allow additional space for vehicles to park and pass. The access to the site has previously been deemed to be acceptable and the revised plans propose no significant alterations.
- 5.7.4 In so far as Air Quality, a condition was imposed at outline requiring the provision of an electric charging point as part of the build phase. Electric vehicle charging is now also a part of building regulations.
- 5.7.5 Overall taking into account the previously approved outline and reserved matters which considered access arrangements and parking provision condition attached, the revised proposal complies 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 reserved matters 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. No comments were received. Details of foul and surface water drainage are controlled by condition attached to the outline which requires the submission of details prior to the commencement of development.

5.8.4 The current application does not include any drainage details therefore drainage matters will need to be resolved through a discharge of condition application. It is recommended that a condition be re-imposed requiring the development to comply with the water efficiency requirements and accord with the provisions of CLP13 and the wider NPPF.

## **5.9 Ground Conditions 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.*

- 5.9.2 Paragraph 178 of the NPPF states 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 area considered to be at 'high risk' of former Coal Mining Legacy. At outline The Coal Authority recommended a pre-commencement condition covering intrusive site investigations and associated remediation/mitigation if required.
- 5.9.4 At reserved matters stage the application was referred to the Council's Environmental Health Officer for comments and no objections were raised.
- 5.9.5 The proposed development is still required to comply with the previous conditions attached to the outline, therefore subject to the submission of the findings of intrusive site investigations and any associated mitigation as recommended in line with the outline the proposal will accord with the provisions of CLP14 and the wider NPPF.

## **5.10 Biodiversity Including Impact on 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 170 d).

### Considerations

5.10.3 The application does not include any detail of biodiversity enhancement. The previously approved plans detailed the provision of two bird boxes as well as landscaping details. It is recommended that a condition be imposed requiring further detail of biodiversity enhancement on site in accordance with Local Plan policy 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 dwellings and is therefore CIL Liable. The site the subject of the application lies within the high 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)	241	0	0	£80.00 High Zone	381	288	£25,505.83

#### Calculation:

CIL Charge (E) is calculated as outlined below:

Net Area (A) x CIL Rate x BCIS Tender Price Index (at date of permission) (C)

BCIS Tender Price Index (at date of charging schedule) (D)

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

$\frac{241 \times £80 \times 381}{288} = £25,505.83$
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## 6.0 REPRESENTATIONS

6.1 The application has been publicised by neighbour notification letters and site notice. 6 Letters of objection have been received in respect of the application. It is necessary to note that most representation received state that the original objection submitted against the previous application CHE/21/00131/REM remain relevant. In the

interests of clarity and transparency the summary of the previously submitted representations for application have been copied below for information (see section 6.3). The objections submitted for application CHE/21/00131/REM are available to read in full on the website.

## 6.2 Summary of comments in relation to current application CHE/24/00019/REM1.

- Increase in building footprint
- Substantive changes to elevational treatments
- Height of building appears unaltered without proven levels this is an assumption
- The visual picture of the front elevation is misleading against the actual elevation in section A-A.
- 2016 Application
  - The 2016 planning application is the most appropriate for the site and it is the original intended property type to be erected. Aligning the design of the property to ALL the surrounding properties would elevate the opinions of the surrounding neighbours.
  - It cannot be ignored that the original outline consent in 2016 on this site approved the principle of one dwelling as a 'chalet bungalow'. Now subsequent reserved matters applications and approvals have totally ignored this based on irresponsible planning comment to claim "that it would be unreasonable to restrict development to 1.5 storeys based on observations of the surrounding street scene." However, the 'material fact' and policy and objections stated in my letter 8 November 2021 still represent the fundamental issue which is: Siting in relation to No 34, Levels, massing, overshadowing and overbearing, Traffic movement and lack of safe turning, General concept characteristics
- 2019 application
  - Ironically the planning report of April 2019 stated that subsequent reserved matters application will require careful consideration of siting and overshadowing of a new dwelling to create a dwelling which responds to the surrounding context and prevailing overlooking and overshadowing impacts to the adjoining neighbours.. In respect to the current application, the planning authority have already approved a proposal which is fundamentally wrong under CHE/21/00131/REM. A variation in this form does not counteract that decision unless it is presented as a properly conceived scheme which adopts the principles of



the valid objections and properly interprets planning policies.

- Comments on number of storeys and levels within the streetscene
  - Section 2.2. of the previous Approval says 'The surrounding street scene is formed of single storey, 1.5 and 2 storey dwellings of similar age which are mixed in character' – this is incorrect. Our property (no 47) is a split-level bungalow. It is not a 2- storey dwelling. All of our living space is on one floor and the floor below is a garage, store-room and basement room. There are NO 2-storey dwelling on the cul-de-sac of Lake View Avenue. The other properties (28, 30, 32, 34, 38, 53, 51, 49 and 45) are all bungalows. This has also been incorrectly stated at 5.5.3. By allowing a 2/3 storey property to be built here totally changes the landscape of the cul-de-sac, and is not in keeping at all with the surrounding properties. If a property is built on this piece of land, it should be a bungalow and nothing more, so it flows with the rest of the cul-desac – it's situated at the very top of the hill, therefore any more than 1-storey will tower above and totally change the landscape.
  - We would wish to point out that the information regarding our property - number 32 - continues to be incorrect in all correspondence from yourselves and our neighbours. Number 32 is, and always has been, a single storey bungalow. We converted the garage to create a craft room which has two roof light windows to allow extra daylight in. There is no loft conversion, nor is there a second storey. We would be grateful if this could be amended in all future references to properties in Lake View Avenue. This point is of particular importance to the planning application for a house between numbers 34 & 38, because our property remains a single storey bungalow as originally intended. Misleading information should not be used in an attempt to justify someone else's planning application. All our objections as made in our previous correspondence remain as regards the negative impacts of these plans on the road in general and on number 34 in particular.
  - All surrounding properties are 1 storey or 1.5 storey's. None of them are 2 storey. Some appear to be 2 storey however they are split level or they have a ground level garage.
  - No 28 is a single story bungalow with a loft conversion/ roof windows No 32 is a single story bungalow with a loft conversion/ roof windows. No 47 has one main single living level. The ground floor is mainly garage space and storage.

No 15 Sandiway (our property) is a split level bungalow. The staircases inside are only 6 steps between levels. Although appears to be 2 storeys, it is not.

- Materials and proposed use of render
  - Local Plan policy CLP20 states all developments should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect 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'. This has NOT been taken into consideration at all, in fact it seems to have been ignored. All the properties on the cul-de-sac are brick, none are 'modern' looking, none have rendering, so this proposed property does not respect the appearance, style, detail, height, materials etc.
  - The new application continues to have wood rendering on the front of the property. This should be addressed and changed. Is it not significant that not a single neighbour on the cul-de-sac or nearby properties is in favour of this application, and none of the objections have been addressed properly or with accuracy.
  - The design and finish materials do not suit the character of the neighbourhood compared with exiting developments
- Highways and access
  - It needs to be considered how construction vehicles are going to access the property without blocking the driveway to no 34 and 38, and causing disruption to the rest of the cul-de-sac. I'm assuming there will be more than one vehicle there at any one time, which will be disruptive, never mind if there is any more. The safety of the residents should be of utmost importance, but doesn't seem to have been considered at all. It is stated at 5.6.1 also – traffic. At 6.2 it does acknowledge this.
  - Details on the parking arrangements need to be made clear. On the planning application drawings, the parking does not seem to work and the levels of the drive don't appear to look correct.
- Hours of construction
  - A condition controlling the hours of construction has been imposed – please could you confirm these days/hours? It is important for us to know.
- Height/scale of development and impact on streetscene
  - This planning application in terms of the height of the building has not changed significantly desite I believe 2/3 submissions. The current application has not addressed the

objections raised, some of the facts submitted appear to be incorrect based upon the comments from other objectors and as such it is my view that the application should be refused on the grounds that it has not taken into account the views of previous objectors. In summary the neighbours are happy with the original application from 2016 as this meets all criteria set from the original self build applications and as such would, I believe be acceptable. To continue to submit unacceptable applications is wasting everyone's time, money and energy.

- The comments regarding the streetscene are opinion. The opinion of all surrounding residents is the opposite. All 18 public comments for application CHE/21/00131/REM are objections.
- Environmental impacts, loss of trees
  - All available committee members at the time were invited to visit our garden of 15 Sandiway to visualise the severity, scale and adverse effect the proposed dwelling would have on our outlook. Despite this and the serious conversations regarding carbon capture and carbon footprints, 30 year nett carbon capture for trees (the same approximate age of this site) the committee voted in favour of the proposed dwelling. Disregarding what they had seen in person and voting against important environmental targets.
- Specific comments in respect of impacts on 15 Sandiway
  - Point 5.5.3 our property is labelled 2 storey Point 5.6.6 our property is correctly labelled a split level bungalow. Can the council confirm they type of properties surrounding the plot? The considerations for our property by the council are appreciated. Our rear ground floor level also has a bedroom for one of our children (9 years). Not only does this bedroom not receive any direct sunlight it would also be overshadowed by the juxtaposition of the proposed building. This very important point needs to be added to the considerations. On balance, if the proposed building was a bungalow, chalet bungalow or split level bungalow in keeping with ALL surrounding properties it would not be visible from our plot 15 Sandiway. There then would be no degree of over shadowing or privacy concerns. The admission by the council that the proposed dwelling would have a degree of over shadowing at sunset is a serious consideration for a young family who spend a lot of their time in the garden. Adding to overshadowing, possible overlooking and privacy issues (there has not been any ground level measurements taken from our property, to guarantee there would be no overlooking or privacy issues)

I believe is somewhat overlooked by the council. Our children are aged less than 1 year to 11 years and currently have no overlooking neighbours. The council admit the proposed property will have an adverse effect on our time in the garden and so this naturally raises my concerns with privacy and overlooking neighbours. The final 3 pages of CONDITIONS and NOTES are heavily in favour of biodiversity, wildlife, trees and bird nesting seasons. I raised these issues at the last planning meeting and the committee still voted in favour. If these concerns are of high immediate importance to the council they should not be voted against. A small bungalow style property sympathetic to the plot would be the compromise.

- When we are lucky enough to have winter sunshine it is still at a minor level in our garden. Allowing the proposed development to go ahead at such size and scale in extreme proximity to our property will only detract from this further.
- Building so big and close to 15 Sandiway will erase our view. Every property on Sandiway and most on Lake View Avenue enjoy some form of a view because of the sympathetic height to its neighbour apart from ours if the proposed development is permitted. This development is not sympathetic, it dominates its neighbours and towers over those next door and blocks or obstructs the outlook from those on one side of Sandiway (15,17 and 19). If the proposal was a bungalow as described in the covenant it would become sympathetic to its neighbours and in keeping with the street scene.
- Loss of view from kitchen and bedrooms, would have an adverse impact on the residential amenity of our property.
- The bedroom downstairs would be totally overshadowed by the proposed development in an already shadowed area of our property.
- There is not a single positive point for any of the residents in the vicinity of this project.
- All our previous objections and concerns are still valid wildlife and ecology, privacy, overlooking, proximity to boundaries, loss of sunlight (acknowledged by the council) and loss of our outlook. The wider impact is the obstruction of the view for those residents on Sandiway. The visual impact of the development would be overwhelming, overbearing, out of scale. It's erasing our entire view. I want to be clear that this objection is based on the important contribution to residential amenity that this view currently makes so its loss would have serious adverse impact on that residential amenity.

## 6.2

### Officer comments

- Increase in building footprint – the overall ground floor footprint remains at approximately 129sqm
- Height of building appears unaltered – scale elevational drawings allow for comparison between the previously approved and proposed plans.
- Section and visual picture misleading – comment noted
- 2016 and 2019 applications – comments noted. The application is a S73 to vary to approved plans, the current application can therefore only consider the proposed alterations to the scheme. Consent has previously been granted for a dwelling on the site therefore the principle of development is deemed to be acceptable.
- Comments on number of storeys and levels within the streetscene – comments noted see section 2.2 of report
- Materials and proposed use of render – comments noted, previously stated that render is not considered to be acceptable. Recommended a condition be imposed requiring approval of materials, as was previously attached to the reserved matters application.
- Highways, parking and access – noted, see section 5.7
- Hours of construction – as set out in outline consent work between 8am to 6pm Monday to Friday and 9am to 1pm on a Saturday
- Height and scale – see design and amenity sections 5.5 and 5.6
- Environmental impacts – noted, trees on site not protected, no concerns previously raised by Derbyshire Wildlife Trust with regards to protected species or adverse impacts
- Specific comments in relation to impacts on 15 Sandiway – see section 5.6 of report

## 6.3

### Summary of main concerns raised for application

CHE/21/00131/REM, copied for reference to this application.

- scale/height of dwelling
  - proposal is for a two storey dwelling which is not in keeping with the surrounding single storey dwellings. Scale of new dwelling is far larger than anything nearby. Proposal ignores the prevailing characteristics of the area which are predominately bungalows with selected level variations. Current submission fails to respond to site context and is inappropriate in the setting. Proposal will dominate the surrounding properties and is overdevelopment. General concerns raised regarding the concept characteristic of the development

- Outline consent was granted in 2016 for a chalet bungalow which was renewed at expiry in 2019. Had plans for a taller property been submitted in 2019 we would've objected to the height on the grounds of amenity impacts. A chalet style bungalow would've been more compatible with the area.
- Surrounding sites were purchases from the Council as self-build dwelling which were stipulated to be Bungalows (see section below on covenants).
- residential amenity
  - proposal will have a serve impact on No 34 due to the difference in land levels between site and existing dwelling and increase in number of storeys. Proposal will adversely impact No 34 due to the siting of the proposal in relation to No 34, the proposed levels, massing will result in overshadowing and overbearing impacts due to proximity. The loss of screen vegetation and trees will impact No 34. The lack of adequate turning on site and potential traffic movements will impact No 34.
  - Will result in overlooking and loss of privacy to surrounding residential properties and gardens. concerns raised in respect of siting of proposal, levels, massing, overshadowing and overbearing impacts.
  - Overlooking implications due of loss of screen vegetation and trees.
  - Separation distance and potential overlooking arising from oblique angle between habitable room windows resulting in overlooking.
  - Mass of proposal will be overbearing and result in overshadowing. Adverse impact on neighbours due to massing, scale and siting of proposal.
  - To prevent overlooking windows facing Raneld Mount could be obscurely glazed. Level changes don't show that the application site is elevated about Raneld Mount is set at a lower level to the north.
  - Adverse impact on the rear garden and conservatory of No 15 Sandiway resulting in overshadowing and dominating impact – impact light and privacy. Overall height of the dwelling will result in overshadowing and impact light levels achieved to the garden especially in the afternoon and would block light to the side of the house where three windows allow light into the basement corridor and upstairs bathroom which would make the areas in the house darker. Proposed development is much closer to our shared boundary therefore anything more substantial than a bungalow would overlook No 15 and block sunlight

- Loss of existing trees - will contribute to openness of proposal and intrusion of overlooking. The trees are mainly deciduous and expect that the proximity to the new build will result in the potential; loss of approximately 50% as a consequence of the construction. There are some attractive trees on the site which should be served to reduce CO2 build up and in the interests of ecology
- Highway safety concerns
  - Length and narrowness of the access with lack of on-site turning will result in vehicles reversing along the drive onto the highway turning head due to lack of turning space within the site. Resulting in highway safety concerns.
  - Development will result in increase in traffic to cul-de-sac which is already congested when deliveries and refuse disposal are taking place. Insufficient space for vehicles to park/load and unload etc which will lead to vans/lorries parking outside of neighbour residential homes due to lack of space on plot.
  - Concerns regarding highway safety and safety of residents during build period due to construction vehicles and trades over a long period of time.
- Scheme is different than the outline submission - proposal is not a clarification of details of the first proposal it is a total transformation. Submitted application form does not set out reasons for variation in the plans between the original proposal and current submission and the applicants have not sought advice from the planning department. The proposals are so different it seems to be an attempt to submit a new scheme under the guise of a reserved matters application. Proposal not an amendment to original permission as it has no resemblance to previous plan as the structure is far more imposing and considerably higher than as originally proposed
- Red line - Issues surrounding the red line of the reserved matters application
- Ecology assessment - A more substantial wildlife survey should be carried out as the maturity of the plot is a haven for wildlife and more species than currently considered
- Covenant on land requiring single storey dwellings - Stipulated that as part of sale plots should only have development of one height structures. When the estate of self builds were released in the 1980's a specific condition was that they should be one storey in height(except for some builds on Lake View Avenue), this building contravenes that condition as excluding the basement it has two clear levels(not a loft conversion) as shown on the front elevation plan. original documentation from that period can be provided.

- Concerns arising during the construction period - not enough room for parking for trade/builders/deliveries to access the site with limited parking on the public highway. Proposal will cause chaos for residents and road users during the build in an area which already gets congested
- Noise/disturbance – measure should be put in place to avoid disruption to residents such as restriction construction hours and use of machinery to business hours on Monday to Friday
- Comments on revision 1 of scheme – amendments do not address the previous objections raised regarding impact on character of neighbourhood/design and adverse impact on amenity of residents, overdevelopment of site, issues with parking/lack of access, inadequacy of parking/loading/turning, noise/disturbance. Believe that the submission of revised plans is a strategy in the hope objections will be reluctant to object again. Scheme is no smaller than first submission and does not address concerns raised. Building has not significantly changed apart from moving slightly due to revised boundary therefore original objections remain. Concerns regarding proximity remain and levels remain unchanged, all other points raised previously regarding siting, levels, massing, overshadowing and overbearing impacts, loss of vegetation/trees and screen, traffic movement and lack of on-site turning and general concept characteristics remain unchanged
- Comments on revision 2 of scheme – concerns remain regarding the height of building, difference in levels with respect to surrounding bungalows therefore previous concerns and comments still apply. Proposal will result in the removal of self set trees which impact on the adjacent properties. Minor changes to the scheme which do not address previous concerns raised. Due to narrow access to site construction vehicles and trade vans will likely block access to neighbour properties due to poor access. Concerns remain with regards to impacts on neighbouring properties and amendments made to scheme to not address the detailed list of concerns set out previously.
- Objectors confirmed that points raised previously still apply

#### 6.4

***Officer comments copied from application CHE/21/00131/REM, sections referred to in comments relate to the previous committee report***

- ***scale/height of dwelling – an assessment has been made as part of the report on the height and scale of the proposed dwelling (see section 5.5 and 5.6). The outline application in 2019 had all matters except access reserved and any forthcoming reserved matters scheme would therefore be***



***assessed on an individual basis based on the design and layout put forwards.***

- ***Residential amenity – an assessment has been made as part of the report with regards to residential amenity (see section 5.6).***
- ***Loss of existing trees – the proposal does seek to retain a number of trees on the site as part of the landscaping***
- ***Highway safety concerns - an assessment has been made as part of the report with regards to highway safety and parking provision (see section 5.7)***
- ***Scheme is different to outline submission - The outline application in 2019 had all matters except access served, any forthcoming reserved matters scheme would therefore be assessed on an individual basis based on the design and layout put forwards.***
- ***Red line boundary – issues regarding the red line boundary have been addressed***
- ***Ecology assessment – the Derbyshire wildlife trust reviewed the submission and raised no objections (see section 5.10 of report)***
- ***Covenant on land requiring single storey dwellings – representations have indicated that residents believe there is a restrictive covenant on the land restricting the development to a single storey dwelling. The application has been ongoing for a lengthy period of time as it is understood discussions have taken place between the applicant and the Borough Council Estates Team. It is important to note that restrictive covenants are classified as non-material planning considerations and therefore cannot be given weight in the determination of the planning application. This matter would be a private matter for the applicant, land owner and Council as former owner imposing the covenant to resolve.***
- ***Concerns arising during the construction period – disturbance during the construction period is classified as a non-material planning considerations and therefore cannot be given weight in the determination of the planning application. Any visitors/trades/deliveries to the site would be expected to observe highway safety regulations as would any highway user.***
- ***Noise/disturbance – a condition was imposed on the outline restricting hours of construction/work.***
- ***Comments on revision 1 of scheme – noted***
- ***Comments on revision 2 of scheme - noted***

- 7.1 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

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 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.

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 proposed revised plan submitted as part of the S73 variation of condition application are considered to be acceptable in accordance with the policies as set out in the report above.

## **10.0 RECOMMENDATION**

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

### **Conditions**

#### Approved plans and documents

1. 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.

- Site and Location plan, drawing number 3274-CDA-00-ZZ-DR-A-0400
- Proposed site levels and site sections, drawing number 3274-CDA-00-ZZ-DR-A-0401
- Proposed plans, drawing number 3274-CDA-00-ZZ-DR-A-0402
- Proposed Elevations, drawing number 3274-CDA-00-ZZ-DR-A-0403

Reason - In order to clarify the extent of the planning permission for the avoidance of doubt.

#### Materials

2. This consent shall not extend to the use of render as shown on drawing Proposed Elevations, drawing number 3274-CDA-00-ZZ-DR-A-0403 and drawing. Proposed site levels and site sections, drawing number 3274-CDA-00-ZZ-DR-A-0401. 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 CLP21 of the Local Plan

#### Water efficiency

3. 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 149 of the National Planning Policy Framework

#### Biodiversity enhancements

4. A scheme for biodiversity enhancement shall be submitted to the Local Planning Authority for consideration within two months of the commencement of the development. The approved biodiversity enhancement scheme shall be installed on site in full

prior to the occupation of the development, maintained and retained 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 180 of the National Planning Policy Framework.

### **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). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may be eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.
4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. The buildings and landscaping have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be

undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. 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.

6. 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 which would be an offence under relevant regulations. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
7. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties.