



Please ask for Democratic Services
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NOTICE OF OFFICER DECISION TO BE MADE

The following Officer Decisions are due to be made by the DEVELOPMENT MANAGEMENT AND CONSERVATION MANAGER on MONDAY, 20 APRIL 2020.

1. Applications for Planning Permission (Pages 3 - 146)

Reports relating to the decision(s) to be taken are attached to this notice, unless they contain confidential or exempt information. A meeting will not necessarily take place when the decision is made. Please contact Democratic Services for more information.

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INDEX TO DEVELOPMENT MANAGEMENT AND CONSERVATION MANAGER'S REPORT ON THE 20th April 2020

- Item 1** **CHE/19/00383/FUL - Demolition of the modern workshop building, and erection of new dwelling with attached 'granny annex' (revised drawings received 07.01.2020, 24.02.2020 and 02.04.2020)**
- Item 2** **CHE/19/00713/FUL - Demolition of existing bungalow and garage and erection of 3 detached dwellings with shared access and private curtilages at 15 Chapel Lane West, Chesterfield, Derbyshire, S40 4AG– Amended plans received on 12.12.2019**
- Item 3** **CHE/19/00747/FUL - Demolition of existing garage and erection of one detached dwelling on land to the side (revised drawings received 31.01.2020, 02.03.2020 and 30.03.2020) 3 Quarry Bank Road, Spital, Chesterfield, S41 0HH**
- Item 4** **CHE/19/00509/REM – Approval of reserved matters for access road on land at The Brushes, Sheffield Road, Chesterfield for Birchall Properties Ltd.**

ITEM 1

DEMOLITION OF THE MODERN WORKSHOP BUILDING, AND ERECTION OF NEW DWELLING WITH ATTACHED 'GRANNY ANNEX' (REVISED DRAWINGS RECEIVED 07.01.2020, 24.02.2020 AND 02.04.2020)

Local Plan: Brimington Local Service Centre

Ward: Brimington North

Plot No: 2/1440

1.0 CONSULTATIONS

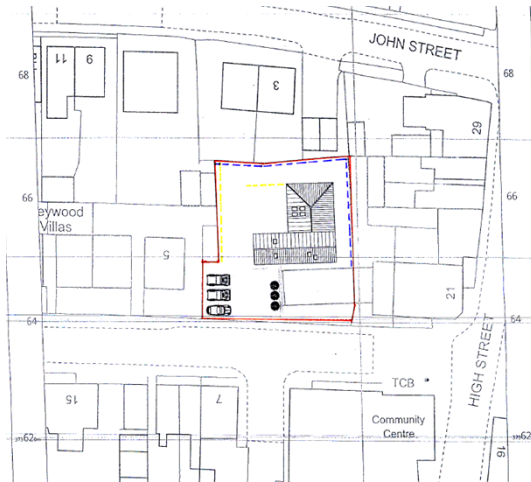
Ward Members	No comments received
Strategy/Forward Planning	Comments received – see report
Environmental Services	Comments received, request for land contamination study – see report
Design Services Drainage	Comments received, condition requested for details of drainage – see report
Yorkshire Water Services	No comments required – see report
DCC Highways	Comments received – see report
Neighbours and Site Notice	5 representations received – 4 letters of objection (from 2 neighbouring properties) and 1 letter of support (address unknown) - see report

2.0 THE SITE

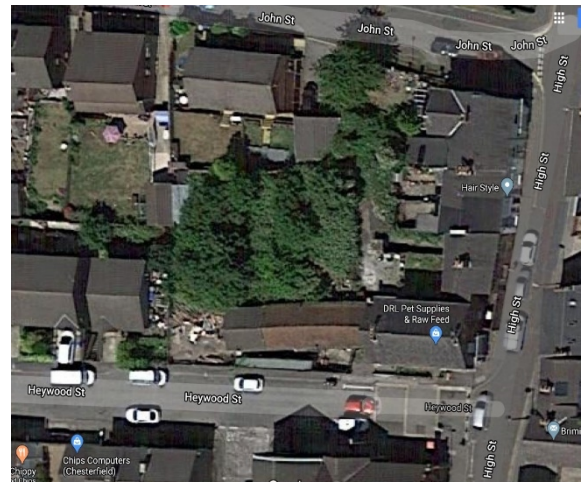
2.1 The site subject of this application is located on the north side of Heywood Street and is situated within the defined Brimington Local Service Centre. The plot currently consists of a single storey building with modern extension adjacent to the southern boundary and the remaining site area has recently been cleared. The existing building is formed of stone and brick with a clay and

concrete pantile roof. The building is used as a joinery workshop and builders' yard by the applicant.

2.2 The site is largely rectangular in shape measuring approximately 675 m² (0.0675 hectares) overall including the existing workshop building. Historical aerial imagery suggests the land to the north of the existing building was relatively overgrown (see aerial photo below).



Proposed revised site layout plan



Aerial photo taken from Google ©



Photo taken from Heywood Street facing north towards the existing site access and towards John Street



Photo taken from within site facing west towards the rear of buildings on High Street, showing site clearance

2.3 The surrounding streetscene is varied in character. Residential dwellings are located to the north, west and south west. To the east of the site is the High Street which features a mix of uses including retail units and residential premises. Brimington Community Centre is located directly to the south of the site. The

architectural character of streetscene predominately consists of two storey buildings which are varied in age and design. A small single storey sandwich shop known as 'Brimington Butty's' directly adjoins the eastern elevation of the existing workshop building, separated by a small gated access believed to provide access to the rear of buildings on High Street. Existing boundary treatments comprise of brick walls which vary in height.

- 2.4 The land level of the site is elevated in respect of residential dwellings on John Street to the North and as a result the first floor windows of Nos 3 and 5 John Street look out across the application site (see photo below).



Photo taken from the application site facing north towards Nos 3 and 5 John Street

- 2.5 The site is located in an area considered to be at low risk of flooding (as defined by the Environment Agency) and is not considered to be at high risk of coal mining legacy (as defined by The Coal Authority) therefore 'standing advice' is applicable.

3.0 RELEVANT SITE PLANNING HISTORY

- 3.1 None relevant

PLANNING HISTORY OF SURROUNDING SITES

- 3.2 CHE/11/00540/COU - Change of use from tattoo studio to butchers shop at 21 High Street, Brimington – **CONDITIONAL PERMISSION (03.10.2011)**
- 3.3 CHE/04/00291/FUL - 2 no 3 Bed Townhouses and garages as revised by drawings 01A,02A,03 and 04 received on 10th February

2005 and the letter dated 10th March 2005 – car park John Street
(CONDITIONAL PERMISSION 18.04.2005)

- 3.4 CHE/1187/0656 - Permission for erection of a detached house with garage on land at Heywood Street Brimington Chesterfield for Lanerange Developments Ltd - **CONDITIONAL PERMISSION (24.12.1987)**
- 3.5 CHE/1187/0657 - Permission for 2 semi - detached houses with garages on land at Heywood Street Brimington Chesterfield for Lanerange Developments Ltd - **CONDITIONAL PERMISSION (22.12.1987)**
- 3.6 CHE/0785/0501 - Permission for residential development at Heywood Street Brimington for Mr. A. Bullimore - **CONDITIONAL PERMISSION (26.11.1985)**

4.0 THE PROPOSAL

- 4.1 The application seeks consent for the erection of one residential dwelling on the site with adjoining 'granny annexe'. To accommodate the dwelling the modern brick built extension to the existing building will be demolished. The extension to be demolished measures approximately 5m x 5m in footprint.
- 4.2 The proposal consists of a 2 storey, 3 bedroom property, formed of an 'L-shaped' footprint' with adjoining single storey structure. The two storey structure measures 13.95m in length and 5m in width, formed of a dual pitched roof measuring 4.3m to the eaves and 5.8m to the ridge. The proposal features a horizontal ridge line which reflects the character of the existing workshop building. The single storey structure adjoins the northern elevation of the main building and measures 8m x 8m in footprint, formed of a hipped roof measuring 2.6m to the eaves and 4m to the ridge. Overall, the footprint of the proposed new dwelling measures 177 square metres.
- 4.3 To prevent overlooking to the north at first floor level the proposal features one bathroom window which could be installed obscurely glazed and a high level roof light. A single window is shown in the north elevation of the single storey structure, shown to be 1.5m above floor level. The east and west elevations of the two storey structure incorporate feature semi-circle windows at first floor level,

serving an en-suite bathroom and bedroom 1. First floor windows have been retained within the southern elevation facing Heywood Street and the Community Centre. The existing single storey workshop building is considered to provide a degree of screening. Additional information has been provided regarding screening and boundary treatments including the provision of additional solid screen fencing to prevent overlooking.

- 4.4 Revised plans show the provision of 3 off-street parking spaces and an area of landscaping to the frontage. The off-street parking will be accessed from the existing entrance point on Heywood Street. The proposal will provide private amenity space which significantly exceeds the minimum recommended requirement of 70sqm for a 3 bedroom property.
- 4.5 Internally the ground floor of the proposed dwelling comprises of an entrance hall with downstairs bathroom and separate utility with open plan kitchen/lounge. A separate 'granny annexe' is indicated with a bedroom, en-suite bathroom and an open plan lounge/kitchen. The first floor of the proposal features two bedrooms, each served by an en-suite bathroom and separate walk-in wardrobe serving bedroom 2. Overall, it is considered that the proposal will provide an acceptable provision of living accommodation.
- 4.6 The application submission is supported by the following plans / documents:
- Application form
 - Revised 'Proposed New Dwelling with attached Granny Annex at Heywood Street, Brimington – South Elevation, North Elevation, East Elevation, West Elevation, Section Through Site at the eastern boundary, ground floor plan view and first floor plan view, received 24.02.2020
 - Site Plan (including proposed fencing) received 02.04.2020
 - Site location plan, received 24.02.2020
 - Design and Access Statement

5.0 CONSIDERATIONS

5.1 Planning Policy Background

- 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 saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

5.2 Chesterfield Local Plan: Core Strategy 2011 – 2031 ('Core Strategy')

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS4 Infrastructure Delivery
- CS6 Sustainable Design
- CS7 Managing the Water Cycle
- CS8 Environmental Quality
- CS9 Green Infrastructure and Biodiversity
- CS10 Flexibility in Delivery of Housing
- CS15 Vitality and Viability of Centres
- CS18 Design
- CS20 Influencing the Demand for Travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (February 2019)
- SPD 'Successful Places: A Guide to Sustainable Housing Layout and Design' (adopted July 2013)

5.4 Key Issues

- Principle of development (section 5.5)
- Design and appearance of the proposal (section 5.6)
- Impact on the amenity of adjoining neighbours and future occupants (section 5.7)
- Highways safety, parking provision and air quality (see section 5.8)
- Biodiversity (see section 5.9)
- Flood risk and drainage (see section 5.10)
- Environmental Quality and Land Condition (see section 5.11)
- Community Infrastructure Levy (CIL) (see section 5.12)
- Representations received (see section 6.0)

5.5 Principle of Development

Relevant Policies

- 5.5.1 Policy CS1 states that *‘The overall approach to growth will be to concentrate new development within walking and cycling distance of centres.’*
- 5.5.2 Policy CS2 states that when *‘assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:*
- a) adhere to policy CS1*
 - b) are on previously developed land*
 - c) are not on agricultural land*
 - d) deliver wider regeneration and sustainability benefits*
 - e) utilise existing capacity in social infrastructure*
 - f) maximise walking / cycling and the use of public transport*
 - g) meet sequential test requirements of other national / local policies’*
- All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.’*
- 5.5.3 CS15 states that *‘New housing will be permitted above ground floors uses or in locations outside the primary retail frontages.’*

Consultee comments

- 5.5.4 To assess whether the principle of development accords with planning policy it was necessary to consult the **Strategy/Forward Planning Team**, the following comments were provided:
- 5.5.5 *‘The current development plan for Chesterfield Borough consists of the Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Borough Local Plan (2006). However, there is also the emerging Local Plan (2018 to 2035) – this is currently being examined and was the subject of hearing sessions in October/November 2019. The Inspectors’ initial response has indicated a number of modifications that are currently being consulted on. Weight should be given to the emerging policies in accordance with the criteria of para 48 of the NPPF. Where this is relevant to the determination of this application it is highlighted below.*

The application site is within the boundary of the Brimington Local Service Centre, as identified on the Local Plan policies map.

The site is within easy walking distance of Brimington Centre, which provides a range of services including convenience retail, GP, pharmacy, and library. It is also within a reasonable walking distance of primary education (Henry Bradley Infant and Brimington Junior Schools) and well served by public transport. It is also previously developed land. The application site therefore supports the objectives of the Core Strategy policies CS1, CS2 and CS20 in terms of locating new development where is accessible by a range of modes of transport and will reduce the need to travel.

Policy CS15 allows for new residential development within centres where it outside of primary retail frontages. The NPPF also states at para 85 that planning policies should encourage residential development on appropriate sites. The proposed development site is on the edge of the defined centre, and off the main frontage. It would not result in the potential loss of any retail units so would not result in any likely harm to the vitality or viability of the centre.

I would however note that the adjacent use appears to operate as a café/sandwich shop, including the sale of items such as bacon rolls. Consideration will need to be given (under policy CS8) to issues such as noise and odour, both in terms of the creation of a suitable living environment for new residents, and to avoid the development inhibiting an existing business use though creating a conflict that does not currently exist.

In summary, the principle of development accords with the adopted and emerging spatial strategies. Conditions should be applied covering:

- *A scheme of measures to achieve a net gain in biodiversity*
- *The provision of electric vehicle charging'*

Considerations

5.5.6

The application site is situated within the built settlement of Brimington. The area is mixed in character comprising of residential dwellings and retail units therefore policies CS1, CS2, and CS15 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition, the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

- 5.5.7 Core Strategy Policy CS1 seeks to concentrate new development within walking and cycling distances of centres. The site is within the defined Brimington Local Services Service Centre is therefore in close proximity to a range of services with opportunities for walking, cycling and access to public transport. The site is therefore considered to be sustainably located and accords with the principles of CS1 with regards to the location of the development.
- 5.5.8 Core Strategy Policy CS2 sets out the principles for the location of the development. Part b) requires development to utilise previously developed land. The application site comprises of an existing building, however historical aerial imagery suggests the remaining site area was previously undeveloped therefore it is acknowledged that the proposal does not fully meet the requirements of Core Strategy Policy CS2 part b), however the proposal is considered to accord with the remaining parts a) and c) through to g).
- 5.5.9 Core Strategy Policy CS15 allows for new residential development within centres provided the development is outside the primary retail area. The site is located to the rear of the main high street with a limited functional link to the main retail area and would therefore accord with the provisions of CS15.
- 5.5.10 The proposal is considered to be acceptable in principle however further assessment of key material issues will be discussed in the following sections including impact on the amenity of neighbour/future occupiers, highway safety and parking provision, biodiversity, flood risk and drainage, environmental quality and land condition (covering policies CS2, CS7, CS8, CS9, CS18 and CS20 and Council's adopted SPD 'Successful Places').

5.6 Design and appearance of the Proposal

Relevant Policies

- 5.6.1 Core Strategy Policy CS18 states that *'all development should 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.'*
- 5.6.2 Core Strategy Policy CS2 states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise,*

odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'

- 5.6.3 The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space and is a material consideration.

Officer assessment and Considerations

- 5.6.4 The surrounding streetscene shows variation in character and architectural style. Materials are predominately brick with examples of render within the immediate streetscene and light painted brick work. The application proposes a building faced in render with grey concrete roof tiles. The type and style of roof tile is not specified, and it is unclear if smooth or pan tiles are intended. It is therefore recommended that formal clarification of specific roofing and walling materials be controlled by condition requiring the submission of additional details prior to ordering.
- 5.6.5 The 'Successful Places' SPD indicates that a new three-bedroom dwelling would require a minimum of 70 square metres of outdoor amenity space. This level of provision would be comfortably accommodated on the site and is therefore considered to be acceptable.
- 5.6.6 The revised scheme has been designed in response to the constraints of the site. Amendments to the revised scheme reduce the eaves and ridge height of the two storey structure. The internal layout and window placement has been amended to limit potential adverse impacts of overlooking and whilst some windows look out towards the existing workshop building it is not considered to result in an unacceptable impact on the amenity of the occupants as the rooms serve bedrooms and non-habitable rooms only. The main living accommodation will benefit from large bi-fold doors in the northern elevation and a window has been introduced at ground floor level within the south elevation to enable passive surveillance of the parking area and landscaped front garden. Overall the proposal is considered to respond to the constraints of the site and is acceptable in appearance, scale, massing and height.
- 5.6.7 The submitted revised site plan shows a solid timber fence to the western boundary and a solid screen fence adjoining the single storey structure to prevent direct overlooking at ground floor level from the living accommodation and creating a private 'courtyard' area for the occupants. To preserve the amenity of the adjoining

residential dwellings additional trellis fencing is also proposed to the northern and eastern boundaries. Trellis fencing as opposed to solid screen fencing is proposed to prevent an overbearing visual impacts from the elevated fencing and to limit loss of light, particularly to the occupants of Nos 3 and 5 John Street to the north (see section 5.7 for further assessment on the impacts on the amenity of the adjoining neighbours). Full details of all hard and soft landscaping have not been provided therefore, it is considered that a condition should be imposed requiring the submission of these details.

- 5.6.8 Having consideration for the observations above the proposal is considered to be acceptable with respect to layout and design and would not result in significant adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the design provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF.

5.7 Impact on the Amenity of Adjoining Neighbours and Future Occupants

Relevant Policies

- 5.7.1 Core Strategy Policy CS2 states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*
- 5.7.2 Core Strategy Policy CS18 states that development must *'k) have an acceptable impact on the amenity of users and neighbours'*
- 5.7.3 The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space and is a material consideration.

Considerations

- 5.7.4 The application site is bound by residential dwellings to the north, west and south west. Birmingham High Street is located to the east of the site and comprises of a mix of uses. Brimington Community Centre is located directly to the south of the site. Due to the siting and orientation of the proposal, potential impacts on the amenity of the neighbours at Nos 3 and 5 John Street, No 5 Heywood Villas Heywood Street and Nos 21 to 27 High Street will be discussed below.

Impact on No 3 and 5 John Street

- 5.7.5 Nos 3 and 5 John Street are a pair of semi-detached dwellings situated to the north of the application. The properties are two storey in character and were built in the mid 2000's. Due to the variation in land levels between Heywood Street and John Street, the first floor windows of Nos 3 and 5 look out across the application site and the gardens and ground floors are at a lower level and are terraced with a large brick retaining wall forming the shared boundary (see photos below).



Photo taken from the rear garden of John Street, showing the variation in land levels



Photo taken from the application site facing north towards Nos 3 and 5

- 5.7.6 The scheme has been amended to address concerns raised regarding potential overlooking. The separation distance between the proposed dwelling and the existing properties is approximately 20m. The 'Successful Places' SPD details recommended separation distances between dwellings and facing windows based on the angle of vision. Good practice is 21m between direct facing windows and 12m between rear and side walls. These are accepted 'rules of thumb' and may be relaxed depending on site context.
- 5.7.7 Due to the variation in land levels it is acknowledged that first floor windows and potentially ground floor windows could result in overlooking to the adjoining neighbours. The scheme was amended to remove first floor windows from habitable rooms, retaining a bathroom window only at first floor level. It is recommended that a condition be imposed requiring the window be installed with obscure glazing and the proposed roof light would be high level and as such would not provide an outlook over

neighbouring properties. The revised scheme also includes a high-level window serving the lounge/kitchen of the 'granny annexe'. It is recommended that a condition be imposed requiring the window be installed 1.7m above internal floor level to prevent overlooking. Additional screening is also proposed including both a solid screen and trellis screen adjacent to the shared boundary. The introduction of a solid screen adjoining the dwelling is considered to restrict elevated views across the site from the proposed bi-fold doors and create a private area for future occupants. The proposed trellis fencing set in from the northern boundary could be enhanced with climbing plants to provide further 'softer' screening and would not be overbearing when viewed from the rear gardens of Nos 3 and 5. Due to the existing separation distance and siting of the proposed development potential adverse impacts of overshadowing are not considered to be sufficient to warrant a refusal.

Impact on No 5 Heywood Villas, Heywood Street

- 5.7.8 No 5 Heywood Villas (Heywood Street) is a detached dwelling situated to the west of the application site. The property is single storey in character when viewed from Heywood Street highway and two storey when viewed from the rear garden due to the variation in land levels. The property is served by patio doors in the side (east) elevation facing towards the application site (see photos below).



Photo taken from facing west towards the side elevation of No 5 Heywood Street



Photo taken from facing west towards the side/rear elevation of No 5 Heywood Street

- 5.7.9 The revised scheme introduces a feature 'semi-circular' window in the side (west) elevation of the dwelling at first floor level. The window serves a bathroom and therefore could be obscurely

glazed to prevent overlooking. Due to the siting and orientation of the proposed dwelling potential adverse impacts of overshadowing are considered to be minimal.

- 5.7.10 To prevent direct overlooking at ground floor level a revised plan has been submitted detailing a solid screen boundary fence adjacent to the western boundary. This is considered to be acceptable.

Impact on Nos 21 to 27 High Street

- 5.7.11 Nos 21 to 27 High Street are located to the east of the application site. The existing boundary treatment comprises of a staggered brick wall (see photos below).



Photo taken from facing south east towards the rear elevation of Nos 21 and 23 High Street



Photo taken from facing north east towards the rear elevation of Nos 25 and 27 High Street

- 5.7.12 The revised proposal incorporates a feature 'semi-circular' window in the side (east) elevation of the dwelling at first floor level serving bedroom 1. Due to the reduced separation distance between the properties it is recommended that a condition be imposed requiring the window be installed obscurely glazed or at 1.7m above internal floor level. It is considered that the windows at ground floor level could be largely screened by the existing brick wall and the introduction of a trellis fencing to prevent direct overlooking as detailed on the revised plan.

- 5.7.13 To protect the residential amenity of the surrounding occupiers it is recommended that a condition be imposed regarding construction work restricting the hours of operation on site 'construction work' shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out 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. NB - The above condition takes into account current guidance issued by Derbyshire County Council, Highways Agency and all Utility companies.

Impact on the amenity of future occupiers

- 5.7.14 The application site incorporates an existing builders yard/workshop and as such it is recommended that a condition be imposed requiring the residential development be linked to the ownership and operation of the workshop/builders yard, preventing selling or letting off of the building.
- 5.7.15 The application site is adjoined to a small sandwich shop known as 'Brimington Buttys'. The potential impact of fried food for example must be considered as to protect the future occupiers from adverse impacts of odour. It is considered however that whilst the policy position is to encourage residential uses within sustainable town centre areas it has to be accepted that such conflicts may occur. The developer and occupants of the proposed dwelling will be fully aware of the proximity to such nearby commercial uses, and the issues they bring, and such a relationship will have been taken on board when deciding to proceed with the scheme. It is also the case that the retail unit is not a 'full blown' hot food takeaway but just a cold food sandwich shop that sells incidental breakfast type sandwiches. The relationship between the commercial use and the new residential development is unlikely to be a problem in the same way that complaints are not generally received from other residential properties located within a similar proximity. Further consideration of potential land quality/contamination issues will be covered in section 5.11
- 5.7.16 Based on the observations listed above and subject to the inclusion of conditions covering the following;
- Fencing/screening
 - Restriction on cill height and obscurely glazed windows in specified locations
 - Hours of work
 - Prevent selling off/letting of associated business

The proposal is considered to accord with the provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF.

5.8 Highways Safety, Parking Provision and Air Quality

Relevant Policies

- 5.8.1 Core Strategy Policy CS18 states that development will be expected to part 'g) *provide adequate and safe vehicle access and parking*'
- 5.8.2 Core Strategy Policy CS20 states that development proposals should demonstrate the following 'c) ... *appropriate parking provision in accordance with the guidance set out in Appendix G*' and requires the installation of electric charging facilities (part e).
- 5.8.3 Core Strategy Policy CS2 states that 'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'

Consultee comments

- 5.8.4 The **Local Highways Authority** Derbyshire County Council Highways were consulted on the scheme and initially objected to the original submission. A revised scheme was submitted and reviewed by the **Local Highways Authority** and the following revised comments were provided;
- 5.8.5 *'The scheme has been amended by demolishing the existing garage attached to the existing building to relocate the parking provision and essentially provide manoeuvring. Although the plan does not appear to be to scale, it would seem from other drawings that the proposal is feasible.*

It is noted that the proposed dwelling and existing builder's yard are in close proximity and you may wish to consider a condition to tie the two premises together, especially as there is no separate parking provision for the builder's yard. On the basis of the above, there are no objections to the proposal and it is recommended that the following conditions are included in any consent.

1. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods

vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

2. The proposed dwelling shall not be occupied until space has been laid out within the site in accordance with the revised application drawing for cars to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. Once provided, the spaces shall be maintained free from any impediment to their designated use for the life of the development.

3. There shall be no gates or other barriers on the access/driveway.

4. The proposed premises and the builder's yard shall be maintained as one unit and one shall not be sold off, let, sub-let etc. as a separate unit.

In addition, the following notes shall be included for the benefit of the applicant.

1. 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.

2. 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.'

Considerations

- 5.8.6 The comments from the Local Highways Authority have been noted. The proposal will provide off-street parking for three vehicles with space for manoeuvring. Appendix G of the Core

Strategy states that for a 3 bedroom dwelling 2 off-street parking spaces should be provided. The proposal therefore exceeds the recommended maximum and provides an additional space which could be utilised for the business on site. Apart from the condition concerning no gates, which already exist, it is recommended that the conditions and informative notes requested by the Local Highways Authority be imposed on the decision. The condition concerning no gates is not necessary on the basis that the access to the site is at the end of a cul de sac and the highway safety concern which would normally arise through the presence of gates does not arise.

5.8.7 In so far as Air Quality, the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017). Infrastructure for electric charging points should installed as part of the build phase and controlled by condition.

5.8.8 Subject to the imposition of the conditions requested above the proposal is considered to accord with the provisions of CS2, CS18 and CS20 of the adopted Core Strategy.

5.9 Biodiversity

Relevant Policies

5.9.1 Core Strategy Policy CS9 Green Infrastructure and Biodiversity states that 'Development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance' and the enhancement of the boroughs biodiversity (f).

5.9.2 The NPPF also requires net gains in biodiversity (see paragraph 170 d).

Considerations

5.9.3 The land to the north of the existing workshop building was cleared prior to the Case Officers site visit. Historic aerial imagery suggests the site was previously overgrown and it is acknowledged that the site likely provided a wildlife habitat. It is considered that there is scope for new planting within the proposed garden area, including potential for wildlife friendly shrubs to create a similar habitat

structure and trellis fencing with 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. It is therefore recommended that a condition be imposed requiring the development to demonstrate a net gain in biodiversity in accordance with the requirements of CS9 and the NPPF.

5.10 Flood Risk and Drainage

Relevant Policies

- 5.10.1 Core Strategy Policy CS7 Managing the Water Cycles states that *'The council will require flood risk to be considered for all development commensurate with the scale and impact of the proposed development'* and *'Sustainable Drainage Systems (SuDS) should be incorporated into all development, unless it can be demonstrated that this is not appropriate in a specific location. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance'*
- 5.10.2 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 CS7 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

Consultee Comments

- 5.10.3 **Yorkshire Water** reviewed the application and stated that on the basis of the information submitted no observation comments were required.
- 5.10.4 **Design Services (Drainage) Team** reviewed the application and provided the following comments; *'The site is not shown to be at risk of flooding, according to the Environment Agency Flood Maps. It is noted that the applicant intends to use soakaways as a means of surface water disposal. Infiltration tests should therefore be carried out and calculations provided in accordance with BRE Digest 365 to ensure no flooding for a 1 in 30 year rainfall event'*

and no flooding of properties for a 1 in 100 year event. Any connections to the public sewerage network will require prior approval from Yorkshire Water. Any amendments to existing drainage on site may require approval from Building Control.'

Considerations

- 5.10.5 Based on the comments listed above, the proposal is considered to accord with policy CS7 of the Core Strategy subject to the imposition of a condition requiring the submission of proposed surface water drainage limitation measures including infiltration calculations for written agreement with the Local Planning Authority prior to installation.

5.11 Environmental Quality and Land Condition

Relevant Policies

- 5.11.1 Core Strategy Policy CS8 states that *'Unstable and Contaminated Land: Proposals for development on land that is, or is suspected as being, contaminated or unstable will only be permitted if the land is capable of remediation and fit for the proposed use and shall include:*
- a) a desk top survey with the planning application*
 - b) a phase II study and strategy for remediation and final validation where the desk top survey (a) indicates remediation may be necessary, on any full or reserved matters planning applications*
- A programme of 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.'*
- 5.11.2 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.'*

- 5.11.3 The planning application site lies in an area considered to be at risk of land contamination and having regard to the requirements of the NPPF and policy CS8 of the Core Strategy the application was referred to **Environmental Health Team** for comments.

Consultee Comments

- 5.11.4 The **Environmental Health Officer** reviewed the application and requested that the following condition be imposed;

'A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

I. A desktop study/Phase 1 report documenting the history of the site.

2 II. A site investigation/Phase 2 report where the previous indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

III. A detailed scheme of remedial works should the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

B. If, during remediation works any contamination is not been considered in the Remediation Method Statement, then additional remediation proposals for this material approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.

C. The development hereby approved shall not be occupied written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.'

Considerations

5.11.5 Based on the comments listed above, subject to the imposition of a condition requiring the submission of a desk top contamination study and proposed remediation measures (if required) for written agreement with the Local Planning Authority the proposal is considered to accord with the principles of CS8 and paragraph 178 of the NPPF.

5.12 Community Infrastructure Levy (CIL)

5.12.1 The application proposes the creation of new dwellings and the development is therefore CIL Liable.

5.11.2 The site the subject of the application lies within the Low CIL zone (£20/sqm) and therefore the CIL Liability would be based on the calculations of gross internal floor space of the development.

			A	B	C	D	E
Development Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permi-ssion)	Index (charging schedule)	CIL Charge
Residential (C3)	177	25	152	£20	334	288	£3526

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

BCIS Tender Price Index (at date of Charging Schedule) (D)

$$\underline{152 \times 20 \times 344} = \underline{\underline{£3526}}$$

288

6.0 REPRESENTATIONS RECEIVED

6.1 The application has been publicised by neighbour notification letters sent on 22.08.2019, 07.02.2020 and 26.03.2020. A site notice was also displayed on 27.09.2020. As a result of the neighbour notification process 5 letters of representation have been received, including 4 letters of objections (from two neighbouring properties) and 1 letter of support. The content of the representations are summarised below;

6.2 3 John Street (27.08.2019 and 18.02.2020)

- Comment Reasons: - Visual
- Comment: 1st floor windows on north elevation look directly into my property removing privacy & other concern
- I am writing regarding some certain issues that I still have regarding the planning permission for this building. Initially, I would like to make it clear that I am happy and grateful that they are considering the opinions of others in regards to this property and making suitable modifications. However, I believe that the northern face of the property could cause serious privacy concerns and raises further questions that need addressing which are as follows. I also have some concerns regarding the boundary and property level in relation the property levels on the northern face of the building.
- A) There is no mention at which level the property is being built on. If they are planning to build level with the southern perimeter of the building, the height difference of the hill would cause privacy concerns with the buildings on the northern perimeter. of the folding doors on the northern perimeter. I feel this is heavily based on which level they are building the property at. Excavation work would need to take place to have the property at a lower level than the southern perimeter to not cause privacy concerns. I would like to know the justification of the folding doors on the northern perimeter if possible.
- C) The skylight on the northern perimeter causes similar privacy concerns. Is this going to be frosted glass?
- I also believe that there is an alternative that resolves my issues and also benefits the property in question, which is to rotate the building 90 degrees clockwise, so the western face of the building faces north. There would only be doors overlooking the properties to the north, removing privacy concerns and also reducing the distance of the building to some properties on the

north. The property in question as well would receive more light in the lounge area, and would also create a more private garden area for the property in question.

6.3 5 John street (11.09.2019 and 11.09.2019)

- Unfortunately we object to the plans, our reasons are:
- 1) we were told when we bought our house (5 John Street, Brimington, S43 1ER) 13 years ago that the land that this new build is planned was green belt land and therefore would not be built on, we can remember it being marked on the plans.
- 2) we chose our house because it had a very private secure garden and none of the windows were overlooked, particularly the children's bedrooms at the rear of the house.
- 3) we are concerned that should this new build go ahead our garden and windows on the back of the house will be completely overlooked and we will lose our privacy which is very important to us. We have 3 children aged 13, 11 and 4 as well as a large dog and the quiet and privacy of our garden is very important for their well being. We are concerned that the windows will be level with our 2nd floor and the residents would therefore be able to see straight into our house, which would be the children's bedrooms which is not acceptable.
- Just to add on to the last email, we are also concerned that being overlooked will potentially reduce the value of our house.

6.4 Officer comments

- **Impact on privacy/overlooking – see section 5.6 and 5.7 of report for comments on privacy/overlooking issues and proposed conditions to address concerns**
- **Level of proposed building/height difference/excavation works – revised plans include section drawing showing proposed levels across site**
- **Bi-folding doors and sky light – revised plans submitted included proposed screening measures to prevent overlooking to neighbouring properties. Sky/roof light is located within the roof plane of proposed dwelling and as such would not provide a direct outlook onto neighbouring properties. See section 5.6 and 5.7 for further discussion on window placement and overlooking**
- **Alter location of dwelling – the scheme has been revised to address potential adverse impacts on neighbours and consideration of separation distances/window placement**

- **Site is green belt land not to be developed on – the site is not allocated as ‘green belt’ and is allocated as being within the defined Brimington Local Service Centre. There are no restrictions on the development of the site and any application received would be considered on its own merits**
- **Loss of value – the loss of property value is a non-material planning consideration and therefore cannot be given weight in the determination of the application.**

6.5

Letter of support, address unknown (11.11.2019)

- I write this email in support of the building application as above. I have been a lifetime resident of Brimington and its surrounding area for over 50 years now. I regularly walk past the workshop owned by Paul on a Sunday morning with my dog and stop to chat with Mr Spencer, as do many other local residents. Mr Spencer is always a delight, on many occasions he can be seen helping out local residents, especially the elderly or more vulnerable, providing them with bits of wood, or doing quick repairs, offering his advice and knowledge. I have noticed the application he has put forward to build on the land directly behind his workshop. (land I must add that has been an eyesore for many years and is already looking so much better now its been cleared). Mr Spencer is a local joiner/builder, as was his father, as is his son and I believe its important that we support local small businesses to stay local, especially when they have done so much already for the local community. Mr Spencer would never "blow his own trumpet" but he has done much work at the local Church in Brimington, his family being regular attenders, he has also carried out works on the local community centre and does a lot for the local Scout Troup, I feel we as a community and the local Council should be promoting and supporting local businesses to thrive as in this day it is very difficult to keep things local with all the competition from larger firms. The workshop itself is in a wonderful position and having seen Mr Spencer's work I would be keen to see the transformation of this land into something spectacular that he would no doubt build in keeping with the local area. So please accept this email in support of keeping Mr Spencer and his small family business local, where they belongs.

6.6

Officer comments – the above comments have been noted.

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 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objectors, the development has the potential to affect their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in

proportion to the nature and scale of the development applied for. Pre application advice was sought and provided.

- 8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 CONCLUSION

- 9.1 Overall the proposal is considered to be acceptable in design and appearance terms. The proposed dwelling is considered to be in keeping with the character of the surrounding area. The location of the proposed development site is relatively sustainable, sited within the defined Local Service Centre with access to a range of local services. It is not considered that that the proposal would result in significant impact on the residential amenity of the neighbouring properties subject to the imposition of conditions outlined within the report. The proposal would provide adequate parking arrangements and would not result in highway safety concerns. Therefore, subject to conditions the proposal is considered to accord with policy CS1, CS2, CS4, CS7, CS8, CS9, CS15, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031, adopted ‘Successful Places’ SPD and the wider National Planning Policy Framework. This application would be liable for payment of the Community Infrastructure Levy.

10.0 RECOMMENDATION

- 10.1 That a CIL Liability Notice be served in line with paragraph 5.12 above.
- 10.2 That the application be **GRANTED** subject to the following conditions and notes:

Conditions

Time scale

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.

Approved plans

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
 - Revised 'Proposed New Dwelling with attached Granny Annex at Heywood Street, Brimington – South Elevation, North Elevation, East Elevation, West Elevation, Section Through Site at the eastern boundary, ground floor plan view and first floor plan view, received 24.02.2020
 - Revised Site Plan (including proposed fencing) received 02.04.2020
 - Design and Access Statement

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.

Hours of operation

3. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out 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 - In the interests of residential amenities.

Land contamination

4. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
 - I. A desktop study/Phase 1 report documenting the previous land use history of the site.
 - II. A site investigation/phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/phase 2 report shall document the ground

conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of contamination. Ground gas, ground water and chemical analysis, identified as being appropriate desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

- III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.
- B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.
- C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in accordance with the requirements of CS8 and the NPPF.

Highways

- 5. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason – in the interests of providing sufficient off-street parking and in the interests of highway safety in accordance with policies CS2 and CS20.

6. The proposed dwelling shall not be occupied until the 3 car parking spaces shown on revised 'Site Plan' (received 02.04.2020) are provided and thereafter shall be retained permanently for domestic car parking maintained free from any impediment to their designated use for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason – in the interests of providing sufficient off-street parking and in the interests of highway safety in accordance with policies CS2 and CS20.

7. A residential charging point shall be provided for the additional dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

Link between dwelling/business

8. The proposed premises and the builder's yard/workshop shall be maintained as one unit and one shall not be sold off, let, sub-let etc. as a separate unit.

Reason – to protect the amenity of future occupiers in accordance with policies CS2 and CS18 of the adopted Core Strategy

Granny annexe to remain ancillary

9. The self-contained accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary

to the residential use of the dwelling on the application site, in that it shall:

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

Reason - The provision of an independent unit of living accommodation would not safeguard a sufficient degree of residential amenity for the occupants of either the existing dwelling or the proposed accommodation.

Materials

10. Before ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

No extensions/additional windows

11. 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 (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings and to prevent additional development

which would adversely impact the amenity of the adjoining occupiers.

Drainage/surface water

- 12.** No development above floor-slab/D.P.C level shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. These details shall conform to the Chesterfield Borough Council Minimum Development Control Standards for Flood Risk.

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

- 13.** 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.

- 14.** 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) the means by which the discharge rate shall be restricted to a maximum rate of 3.5 litres per second.

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

Landscaping – hard/soft

- 15.** No development above floor-slab/D.P.C level shall take place until details for the treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be

landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) a scaled plan showing trees and plants to be planted:
- b) proposed hardstanding and boundary treatment:
- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

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

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

Biodiversity/ecology

16. As part of the landscaping condition referred to above, suitable habitat shall be created that enhances the ecological interest of the site, in line with guidance within Paragraph 175d of the NPPF. This could include native landscaping, retention of existing features of ecological value (such as the hedgerow) and incorporation of bat and bird boxes into the new dwellings.

Reason - In the interests of ecology.

Windows

17. Notwithstanding the details shown on the approved plan Plans and Elevations, the windows listed below shall be installed as detailed and retained as such in perpetuity;
- The first floor bathroom window within the north elevation shall be installed obscurely glazed with a minimum of level 4 obscurity and shall only be fitted with an opening above 1.7m high (measured internally)

- The ground floor lounge/kitchen window serving the granny annexe in the north elevation at ground floor level shall be installed obscurely glazed with a minimum of level 4 obscurity and a minimum cill height of 1.7m (measured internally).
- The semi-circle windows in the east and west elevations at first floor level serving bedroom 1 and bathroom shall be installed obscurely glazed with a minimum of level 4 obscurity.

Reason – to protect the amenity of the adjoining neighbours

Notes

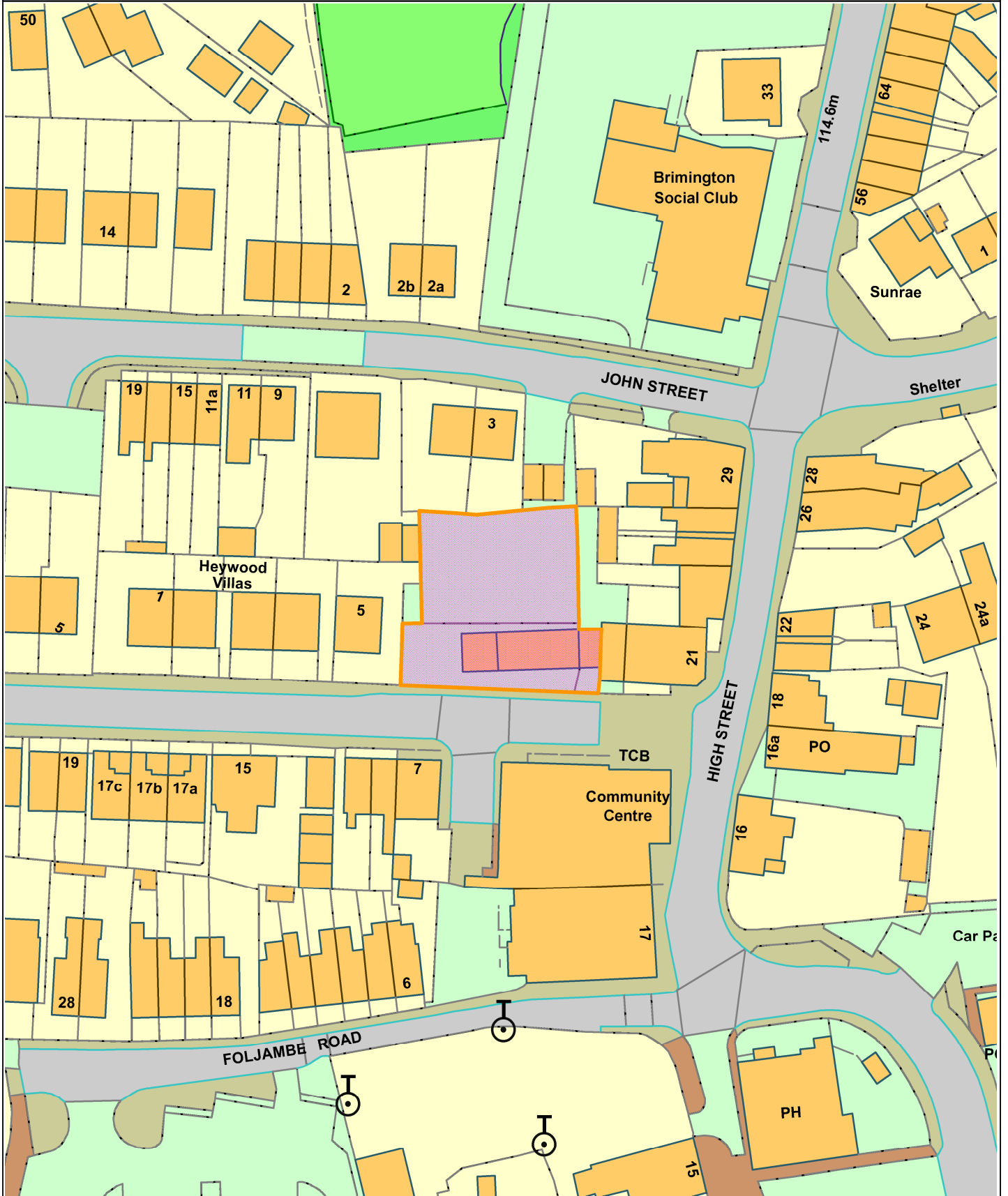
1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
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 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

5. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
6. The developer should refer to the Council's 'Minimum Standards for Drainage' guidance in preparing any drainage proposals for submission /consideration.
7. 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).
8. 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/development_control/vehicular_access/default.asp , E-mail highways.hub@derbyshire.gov.uk or Telephone Call Derbyshire on 01629 533190.
9. 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.

10. 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.

11. The buildings 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.



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Case Officer: Chris Wright

Tel. No: (01246) 345787

Decision date 20th April 2020 (subject to Covid 19 revised procedure)

File No: CHE/19/00713/FUL

Plot No: 2/5017

Item 2

DEMOLITION OF EXISTING BUNGALOW AND GARAGE AND ERECTION OF 3 DETACHED DWELLINGS WITH SHARED ACCESS AND PRIVATE CURTILAGES AT 15 CHAPEL LANE WEST, CHESTERFIELD, DERBYSHIRE, S40 4AG- AMENDED PLANS RECEIVED ON 12.12.2019

Local Plan: Economic Growth

Ward: West

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategic Planning Team	No objection to scheme but require additional information in relation to several aspect and conditions to be included.
Environmental Services Team	No objection subject to conditions for hours of work and air quality (electric charging points).
Design Services	Supportive of design of scheme in relation to flood risk. Require further information submitted in relation to drainage for site including surface water drainage.
Environment Agency	No objection subject to condition regarding adherence to flood risk assessment.
Yorkshire Water Services	No comments
DCC Highways	Require clarifications/additional information – see report
Chesterfield Cycle Campaign	No comments provided.
The Coal Authority	Material consideration, with conditions required regarding site investigations and mining gas,
Urban Design Officer	No detailed comments, but generally supportive of scheme.

Derbyshire Wildlife Trust	No objection after revised information provided, subject to condition.
Emergency Services	No comments provided.
Neighbours/Site Notice	2 comments received, both objections.

2.0 **THE SITE**

- 2.1 The site subject of the application is a rectangular parcel of land which is to the southern end of the western side of Chapel Lane West; which runs to the south of Chatsworth Road. To the south of the site there is the River Hipper and a mature tree belt. To the north is a row of dwellings fronting Chatsworth Road and their long gardens, with The Star public house on the corner of Chatsworth Road and Chapel Lane West. To the west of the site is a yard for Bristol Street Motors, which includes outbuildings located on the boundary between the two sites. To the eastern of Chapel Lane West there is a row of 4 terraced houses, a detached bungalow and separate terraced-style dwelling. The tow of terraces face the river and have front gardens.
- 2.2 The site is split into two sections with a bungalow to the eastern side of the site and a grassed area with some fruit trees on it to the western side. The site also includes a patch of land that was previously car parking spaces related to the public house which is sited on Chatsworth Road.
- 2.3 There is a car parking area for 9 vehicles for the public house. The row of terraced houses do not appear to have parking spaces designated for them, the bungalow has access to off-street parking to the front of the site. There is an area of hardstanding to the north of the terraced-style detached dwelling but it is unclear who owns the land and is able to utilise this. The private road surface is not of a good standard and limited availability for safe on-street parking on this road.
- 2.4 The site is residential in nature at present and is surrounded by housing on most of the sides. The area beyond the river is green space associated to Walton Dam. There are retail units on Chatsworth Road including The Star public house and its land to the north of this site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0185/0006 - Permission for bungalow and garage – Conditional Permission - 13-03-85

4.0 **THE PROPOSAL**

- 4.1 This application is for the demolition for the existing bungalow and garage and building of 3 detached dwellings. These dwellings would have gardens to the side of the houses and parking below the undercroft design which also includes a raised access door. The dwellings are contemporary in design with facing brickwork at ground floor and timber boarding on the upper floors, with large areas of glazing to the front. They would have slate roofs. There are also two balconies on the south side of each dwelling and a privacy screen on one side of these to protect one another's privacy.
- 4.2 The site has permeable paving and soft landscaping to the front of the sites to reduce surface water runoff from the site. Each dwelling would have two separate front balconies, with 20.5 sqm first floor space and 13m second floor space; both of which would have some level of privacy from other residents on site. They would also have side gardens that would have hedges to the front and rear as well as a tree and these areas would be approximately 50 sqm in size.
- 4.3 A revised drawing has been provided that has amended the site including an area to the east of plot 1, a landscaped area has been changed to a turning area for visiting vehicles and a bin storage area on bin collection days.
- 4.4 There is a rear walkway (raised above 1 in 200 year flood event height) to the rear of all 3 dwellings which provides access into and out of the site in case of flooding but also for everyday use.
- 4.5 The scheme would have access to the site from Chapel Lane West and a 3.7m wide access road along the south of the site. Each dwelling would have 2 parking spaces that are 5.0m by 2.5m in width and then approximately 6m to the rear of the vehicle spaces to enable them to reverse their vehicles and leave the overall site in a forwards gear.
- 4.6 The dwellings would be 3 bedroom houses with a utility room, entrance hall and WC at ground floor; a kitchen, dining room and lounge area and WC and balcony area at 1st floor and 3 bedrooms and 2 en-suite bathrooms at the 2nd floor.
- 4.7 The dwellings will have large sections of glazing to the front; with a window and access door to the rear at ground floor level, at first floor there will be no windows to the rear, with one obscure glazed WC window on the eastern side and a double paned window for the kitchen on the western side (which will overlook the garden space). At second floor there will be no windows to the rear with two small velux windows for bathrooms and a larger velux window for the 3rd bedroom (which will allow some outlook due to its height).

5.0 **CONSIDERATIONS**

5.1 **Policy Issues**

5.1.1 The site is within land allocated as Employment Land on the adopted Policies map (and the Submission Policies Map which has been through examination hearings). It is an existing residential dwelling and as such is previously developed land apart from the garden, as the NPPF specifically excludes private residential gardens within built-up areas from the definition of previously developed land (annex 2: Glossary). Part of the site is therefore greenfield land. The site is within Flood Zones 3a and 2, and is at medium risk of surface water flooding. The site is adjacent to the river hipper corridor and the public open space to the south.

Policies CS1 and CS2

5.1.2 Policies CS1 and CS2 have in effect been formally reviewed through preparation of the emerging new Local Plan and the spatial strategy they set out is still considered consistent with the NPPF. The outcome of that review process in the form of emerging policies LP1 and LP2 is (in so much as the policies are relevant to the proposed development), will update the current adopted policies but will not change the overall strategy. The recent appeal decisions, in particular that at Northmoor View did not conclude that the policies CS1 and CS2 are out of date, nor that paragraph 11(d) of the NPPF is triggered in this respect. It is also the case that the circumstances referred to in footnote 7 of the NPPF as triggers would not be present.

5.1.3 Consequently, given the above, whilst policies CS1 and CS2 were adopted over 5 years ago they should be afforded the full weight of adopted, up to date policy in the planning balance. Furthermore paragraph 11(d) of the NPPF is not triggered by the longevity of these policies or the outcome of their review. Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years.

5.1.4 Some weight should be afforded to the emerging Local Plan policies LP1 and LP2 due to having completed the hearings of the examination.

5.1.5 The site is located within very close walking distance of Chatsworth Road District Centre and therefore accords with Policy CS1 Spatial Strategy in this regard, and in principle is an acceptable location for residential development.

5.1.6 CS2 sets out a number of requirements, and proposals are assessed according to the extent to which they meet these criteria. The proposal meets criteria a, c, e and f. In terms of criteria b, the NPPF specifically excludes private residential gardens within built-up areas from the definition of previously developed land (annex 2: Glossary).

Employment Allocation

5.1.7 Although the site is located within an allocated employment area, Policy CS13 must be considered. Although there is an existing residential use on the site, and therefore the proposal cannot be said to lead to a quantitative or qualitative deficiency in available employment land (CS13 criteria i), it is still necessary to consider whether the proposal would inhibit existing or future business and industrial activity on adjacent sites (CS13 criteria ii). Considering the prevalence of other residential properties in the immediate area, it is not considered likely that the proposal would inhibit existing or future business or industrial activity.

Policy CS10

5.1.8 Policy CS10 states that “planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or...there is less than a 5 year supply of deliverable sites.” As the council is currently able to demonstrate a five year supply of deliverable housing sites, policy CS10 would indicate that planning permission should not be granted for the development of residential gardens or small scale greenfield urban infill plots such as that proposed. Accordingly the proposal would not accord with policy CS10.

5.1.9 When considering policies CS1, CS2 and CS10 together in the instance of the proposal, there appears to be a tension between policy CS1, CS2 and CS10. The proposal would accord with policy CS1 and the majority of the criterion in policy CS2 would also be met. However, it would not accord with CS10. In such a circumstance it is for the decision maker to attribute weight to the policies taking into account the facts of the particular case. In this instance it would seem reasonable to apply greater weight to policy CS1 than CS10 on the basis that (in a cumulative manner): -

- The proposal accords with Policy CS1
- The majority of criteria in policy CS2 are met (see comments below regarding highways and access)
- The site and proposal are small, within walking distance of a centre and is within the existing built up area of a settlement.
- The site is within 15 minutes travel time (bus) of essential services and facilities.
- The site is not on land protected by the Local Plan for Green Infrastructure, Biodiversity or ‘open countryside’ functions and its loss would not have an impact on the intrinsic character and openness of the countryside or the general level of amenity of the locality
- Overall the proposal would not prejudice the local plans spatial strategy and strategic objectives.
- The proposal would be broadly consistent with the requirements of the NPPF and in principle represent sustainable development and to give greater weight to CS1 in the circumstances would in effect promote a good mix of sites for small housing developments,

supporting the development of a windfall site within an existing settlement, and afford great weight to the benefits of such development.

5.1.10 Having established that the location is appropriate for residential development, the proposal accords with the Spatial Strategy and there is not an issue regarding loss of employment land/impact on existing or future business or industry.

5.1.11 It is considered that the site is situated within close vicinity of Chatsworth Road. This immediate area is mixed in character, with a mix of residential and retail, although the existing site is residential in character. It is within close proximity to a local centre and its services and facilities.

5.1.12 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national / local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

5.1.13 The proposed development site is situated within short walking and cycling distance from Chatsworth Road Local Centre. The existing site is residential in character and the principle of residential development is therefore considered to be acceptable. The site is located within a built-up area where new housing development would be considered appropriate in principle and as such it is considered that this proposed development site is considered to be sufficiently sustainable for a development of this nature. It is considered that in this case policy CS1 should have more weight than policy CS10 and the site is sufficiently sustainable for a development of this nature and adheres to the policies CS1 and most of CS2.

5.2 **Design and Visual Amenity**

5.2.1 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition the policy requires

development to have an acceptable impact on the amenity of neighbours. Furthermore the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.2.2 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.
- 5.2.3 In accordance with Core Strategy Policy CS18 all new development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. In doing so developments are expected to respect the character, form and setting of the site and surrounding area; having regard to its function, appearance, scale and massing.
- 5.2.4 The site is positioned in the location of an existing bungalow. The character of housing in the area is mixed, with terraced housing and bungalows the predominant housing types within the locality. It is accepted that the proposed dwellings are completely different in design terms to the character of the surrounding area however the dwellings will face the river and they will appear as two storey dwellings although will function as three storey dwellings, with the roof space used as living accommodation. They are predominantly glazed to the front and then mainly timber clad to the rear and sides as well as having large slate roofs. They are not considered to have any significant relationship with the surrounding dwellings in terms of building line, scale, massing or street scene.
- 5.2.5 The proposed dwellings would be attractive modern dwellings and considered to be contemporary styled and innovative in design in terms of utilising the space on site whilst still having 3 separate useable amenity spaces including a small side garden and one large balcony and one smaller balcony. As they will have a clear relationship with the adjacent river and trees the scheme is considered to be a positive relationship. The use of slate roofs, timber cladding and glazing to the frontage will create high quality and unique dwellings in this part of the Borough of Chesterfield.
- 5.2.6 The proposal is not considered to have a detrimental impact on the area and would introduce innovative and interesting dwellings to the

area. It is considered that the application is acceptable in terms of design for policies CS2 and CS18.

5.3 Residential amenity

- 5.3.1 Core Strategy Policy CS2 comments that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 5.3.2 In terms of overlooking, overshadowing and other impacts on surrounding dwellings in the area the proposed dwellings are somewhat isolated and separated from adjacent dwellings and the scheme is considered acceptable in terms of separation distances, overlooking and overlooking.
- 5.3.3 In terms of the inter-relationships between the dwellings on site, the dwellings include several features that ensure the residents will have acceptable levels of privacy between each dwelling, due to the positioning of obscure glazing, privacy screens and fencing.
- 5.3.4 Overlooking - Plots 1 and 2 do not have clear glazed side windows that will overlook the gardens of neighbouring dwellings, the 1st floor balconies to the front will have privacy screens to the eastern sides and hit and miss fencing will be included at ground floor level to the side of open area of the cantilevered dwellings.
- 5.3.5 Overshadowing – The dwellings will not lead to overshadowing between one another internally, and as the gardens are to the western sides of each dwelling, they should get reasonable levels of day and sunlight into the gardens. The balconies are on southern elevations of the dwellings so will have good levels of sun and day light in summer. The mature trees to the south of the site will impact the dwellings especially in summer months.
- 5.3.6 Landscaping – The proposal includes some soft landscaping to the site within gardens and shared areas, including trees and hedges; additional information on the specifics of this can be sought in a condition. The general idea of including some level of planting on site is considered to be reasonable in proportion to the size of the site.
- 5.3.7 Amenity space – The proposal includes side gardens of approximately 50 sqm, a 1st floor balcony of 20.5 sqm and 2nd floor balcony of 13 sqm in size; this adds up to over 80 sqm of amenity space spread over 3 different spaces. In the Council's Design Guidance it is recommended that a 3 bedroom dwelling has a minimum of 70sqm private amenity space, and this is generally meant to be in one space, not spread over several smaller poorly designed, laid out or positioned spaces. This proposal does not achieve one singular space, but all 3 spaces are

considered to be attractive and likely to be used, with the balconies overlooking the river and trees, and small garden suitable for drying clothes and normal usage without any overshadowing or overlooking issues from adjacent buildings.

- 5.3.8 Overall the proposed development is considered to be appropriately designed to respond to the provisions of policies CS2 and CS18 of the Core Strategy and the wider SPD, subject to conditions for soft landscaping, trees and retention of privacy elements.

5.4 Highways Issues

- 5.4.1 The Highways Authority was consulted on the proposal and provided these comments:

Chapel Lane West is not adopted as part of the publicly maintainable highway, is not included in the area the subject of the application or shown as being in the ownership/control of the applicant. Access may, therefore, be an issue and you may wish to clarify this with the applicant. The planning application form indicates new or altered vehicular access. Comments are given on the basis that this is within the site and does not affect the junction of Chapel Lane West with Chatsworth Road. Whilst the site is remote from the publicly maintainable highway, current design criteria suggests that to serve 2 to 5 dwellings, the access should be 4.25m wide with 0.5m widening for each side where it is bounded by a wall, fence, hedge, line of trees or similar. The Highway Authority would have concerns regarding the lack of formal turning for service/delivery including smaller service/delivery vehicles e.g. supermarket delivery to allow vehicles to enter and exit the site in a forward gear. The applicant should demonstrate a manoeuvring area in order that vehicles can enter and exit Chatsworth Road in a forward gear. The applicant should liaise with the refuse/recycling collection Authority as to the suitability of any layout. If such vehicles will not be entering the site the residents will be required to take their bins some considerable distance and there would not appear to be any opportunity for the provision of a bin dwell area for collection days leading to increased 'obstruction' of the footway on Chatsworth Road albeit on a temporary basis. The properties would be located some considerable distance from the publicly maintainable highway and the applicant should liaise with the emergency services as to the acceptability/suitability of any layout. The dimensions of the car parking spaces appear acceptable (i.e. 2.4m x 5.5m) and it should be remembered that 6m is required to the rear for manoeuvring and vehicles will need to be able to enter and exit the site in a forward gear which it is considered is achievable."

- 5.4.2 The above comments were provided in line with the original drawings. The scheme has since been amended and it now has a turning area for vehicles, a bin storage area next to the entrance and a 6m plus area to the rear of the parking spaces to allow vehicles to turn and leave the site in a forward gear. The parking spaces are 5m long and 2.5m wide,

which is considered to be an acceptable size parking space. There would be 2 parking spaces on plot per dwelling which is in line with the preferred number of parking spaces for a 3 bedroom dwelling.

- 5.4.3 To get to the site the residents would need to travel down Chapel Lane West from Chatsworth Road, this is a private road with a poor surface and with parking spaces for dwellings to the eastern side at the top and for the public house to the west further down the road. There are multiple obstacles on the road including a telegraph post, bins for the public house and limited on-street parking. The road has some limited segments of footpath but is completely unmarked which is not considered to be ideal, especially when considering the potential for increased vehicular travel on this road. There have been comments from local residents that additional vehicular travel is not welcome and that this could lead to a negative impact on highway safety on the road.
- 5.4.4 The proposal will require construction traffic to utilise the private road however such construction traffic is a temporary impact and that even on restricted roads that this is not a valid reason for refusal. The issues are that there is a limited width, poor surface, obstacles and poor access to the site. The proposed site would have an improved new access into it including an area currently landscaped and to be set aside for parking. This new access is considered to be suitable by the local highways authority. The condition of the road and obstacles are not positive aspects of the access road but they are in place at present with several houses and visitors to the public house having to navigate them and deal with the issues they present. The proposal would add two more dwellings on the street, which is not considered to be a significant increase and would actually increase the number of residents who would share the costs of repair and maintenance of the road.
- 5.4.5 The existing access that exits on Chatsworth Road is considered acceptable for the existing residents on the road, and the proposal will add the vehicles from 2 more dwellings which is not considered to be a significant increase.
- 5.4.6 The revised drawing that includes a turning area and bin storage area is considered to be an improvement to the scheme, and this should enable the safe access from the site of non-resident vehicles in a forwards gear. It will also enable bins to be stored in a safe and non-cluttered location on bin collection days and will also ensure that bin wagons can continue to collect waste by only accessing Chapel Lane West as they currently do.
- 5.4.7 It is considered that the scheme will not lead to a significant impact in terms of its impact on highway safety and is considered to be acceptable in comparison to local and national planning policies.

5.5 Water/Drainage/Flood Risk

- 5.5.1 The site is within Flood Zones 3a and 2 and is at medium risk of flooding. The applicant has provided a Flood Risk Assessment and it is agreed that the first part of the exceptions test is met, and the proposal delivers sustainability benefits (in particular the overall effect of reducing flood risk on the site and also downstream). With regard to the second part of the exceptions test, it is agreed that the proposal would provide a net gain in the flood attenuation performance across the site (as a whole) and the proposal is in accordance with policy CS7 subject to the permeability of material of any hard surfaces being secured by condition.
- 5.5.2 The Council's Design Services Team comments that the applicants flood risk assessment for the development states that the proposed lower ground floor level will be raised above the estimated 1 in 200 year river flood level. The lower ground floors will provide only a garage, utility and WC with habitable spaces located upstairs to increase flood protection. A walkway to the rear of the site is located above the 1 in 200 year flood level to aid in safe egress from the properties in the event of flood. The properties will also be constructed using flood resilient construction methods.
- 5.5.3 The Design Services Team have no objection to the principles of managing flood risk and comment that the scheme should be constructed in accordance with the designs and flood risk assessment.
- 5.5.4 The Environmental Agency was also consulted on the scheme and they confirmed that they did not object to the proposal.
- 5.5.5 As the proposal has been designed to be acceptable in terms of the flood risk it is considered that the scheme is acceptable in terms of Local and National Planning Policy.

5.6 Environmental Health - Land Condition / Contamination

- 5.6.1 Land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.
- 5.6.2 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 a condition should be imposed placing restrictions on the hours of construction in the interests of protecting the amenity of neighbouring properties, as well as the inclusion of electric charging points, to reduce air pollution.
- 5.6.3 In relation to noise from the construction of the proposed dwellings; the workers on site would be restricted with the working hours to be 8am-6pm Monday to Friday, 9am-5pm 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.

5.6.4 In respect of potential Coal Mining Risk, the site the subject of the application is situated within the Red Referral Area. The Coal Authority were consulted on this application and they stated that the application site falls within the defined Development High Risk Area. A Coal Mining Risk Assessment was provided by the applicant and the Coal Authority considered this to be acceptable. The Coal Authority therefore has no objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

5.7 **Biodiversity Green Infrastructure and Biodiversity**

5.7.1 The existing site is a residential dwelling with a garden surrounded by soft landscaping. It is also adjacent to a river with mature trees. The applicant/agent has submitted ecology reports and this has been assessed by Derbyshire Wildlife Trust commenting:

Further to our previous responses between December 2019 and February 2020 we have now reviewed the revised ecology report produced by Paul Hicking Associates dated February 2020, reference 1975-PHA. We are satisfied with the additional information and assessment that has been provided.

If the Council are minded to grant planning consent for the above development it is recommended that the following conditions and informative are attached to this consent.

- *Prior to the commencement of development a detailed biodiversity enhancement strategy shall be submitted to and approved in writing by the Council. This should include integrated measures for nesting birds and roosting bats, hedgehog gaps and native planting. Such approved measures shall be implemented in full and maintained thereafter.*

- *No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.*

- o *Risk assessment of potentially damaging construction activities.*

- o *Identification of "biodiversity protection zones".*

- o *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*

- o *The location and timing of sensitive works to avoid harm to biodiversity features.*

- o *The times during construction when specialist ecologists need to be present on site to oversee works.*

- o *Responsible persons and lines of communication.*

- o *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*

- o *Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout

the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. Paragraph 180 of the NPPF states “By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”. As part of this development lighting should be minimised to reduce impacts on foraging bats and the River Hipper. The design and specification of internal and external lighting will need to be considered as the new properties have large glazed front elevations that overlook the River Hipper. This should be secured through the following condition:

• Prior to the commencement of development, a lighting strategy shall be submitted to and approved in writing by the Council. Such approved measures must be implemented in full and maintained thereafter. An informative with regard to nesting birds is also recommended as the development will involve the removal of vegetation suitable for nesting birds.

5.7.2 The scheme has some level of soft landscaping including tree planting however further information is required about bat and bird boxes to ensure the scheme achieves a net gain in biodiversity. Conditions can be included in line with policy CS9.

5.7.3 It is important also to note the new policy LP20 River Corridors in the submission Local Plan, which can be afforded some weight on the basis that it has been through the examination hearings. The emerging policy approach requires that development proposals do not prejudice the existing character of and/or the future potential for improvement and enhancement of the environment of rivers. It also requires development proposals on or adjacent to river corridors to include provision for safe and convenient walking and cycling access wherever possible however in this case such access is not required or appropriate.

5.8 Community Infrastructure Levy (CIL)

5.8.1 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.

5.8.2 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	131		131	£50	344	288	
Plot 2	131		131	£50	344	288	
Plot 3	131		131	£50	344	288	
	393	75	318	£50	344	288	£18,991.66

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

$$\frac{318 \times 50 \times 344}{288} = \text{£18,991.66}$$

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6.0 REPRESENTATIONS

6.1 2 comments have been received from local residents:

6.1.1 Residents of East Barn, Loads Road, Holymoorside have stated that they object to the scheme due to noise and traffic or highways, the road is of a poor standard and there would be no provision for lorries delivering materials to the site to turn and leave the road in a forwards gear.

6.1.2 Residents of 424 Chatsworth Road objects to the scheme due to highway safety issues and damage to riverside habitat. They have stated that the lane is in poor condition at present and that the addition of 3 dwellings would have a negative impact on highway safety, as the junction onto Chatsworth Road is busy.

6.2 ***comments – highways issues are dealt within the highways section of the report. It is accepted that the road is of a poor standard and that construction traffic may make this situation worse, but this is a temporary impact and the ultimate increase in traffic will not be significant. Chapel Lane West is a private road and its maintenance and repair is a private matter between those who have rights of way over it. The ability to access Chapel Lane***

West and turn will not change and will be no worse than existing. Noise issues and impact on biodiversity are considered in the 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 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objectors, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the February 2019 National Planning Policy Framework (NPPF).

8.2 Given that the proposed development subject to conditions would not conflict with the revised NPPF (February 2019) and with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

9.0 **CONCLUSION**

9.1 The proposals are considered to be appropriately designed and would not have a significant unacceptable impact on the amenities of neighbouring residents or and significant impacts on highway safety.

The proximity to the river is taken account of resulting in nom objections from the Environment Agency and the drainage team of the Council. It is considered that the location of the proposed development site is sufficiently sustainable, is in a built up area and is adequately served by public transport and local services and amenities. As such, the proposal generally accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

9.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS18 of the Core Strategy and the wider NPPF in respect of Highways, design and landscaping. This application is liable for payment of the Community Infrastructure Levy.

10.0 **ADDITIONAL RECOMMENDATION**

10.1 That a CIL Liability Notice be issued as per section 5.8 above.

11.0 **RECOMMENDATION**

11.1 That the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans.
3. Prior to commencement a scheme of separate foul and surface water drainage which demonstrates that sustainable techniques have been used where feasible and viable shall be submitted to and approved in writing to the Local Planning Authority. The development shall be carried out in accordance with the approved scheme. This shall include detailed information to show how the proposed drainage system will function.
4. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted in writing to and approved by the Local Planning Authority. This shall include infiltration rates if a soakaway is to be used.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces

hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

6. Unless otherwise approved in writing by the Local Planning Authority construction work to implement the permission hereby granted 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.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no windows, side or rear extensions, outbuildings, means of enclosure or alterations to existing means of enclosures, boundary treatments or privacy screens other than those hereby permitted, shall be constructed/carried out or removed on the site without the permission of the Local Planning Authority.
8. Prior to the building of the dwellings, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods, vehicles, parking and manoeuvring of employees and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designed use throughout the construction period.
9. Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This sockets shall be located where they can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.
10. Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Chapel Lane West.
11. The vehicular access shall be provided, prior to the first occupation of the new dwellings, with 2m x 2m x 45° pedestrian intervisibility splay with the area in advance of these sightlines being kept clear of objects greater than 1m in height (0.6m in the case of vegetation) relative to nearside carriageway channel level.

12. There shall be no gates within 5m of the nearside highway boundary and any gates shall open inwards only.
13. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
14. No development above floor-slab/D.P.C level shall take place until details for the treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
 - a) a scaled plan showing trees and plants to be planted:
 - b) proposed hardstanding and boundary treatment:
 - c) a schedule detailing sizes and numbers of all proposed trees/plants
 - d) Sufficient specification to ensure successful establishment and survival of new planting. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details.
15. As part of the landscaping condition (condition 14), suitable habitat shall be created that enhances the ecological interest of the site, in line with guidance within Paragraph 175d of the NPPF. This could include native landscaping, retention of existing features of ecological value (such as the hedgerow) and incorporation of bat and bird boxes into the new dwellings and hedgehog gaps in the fences. These shall be installed prior to the occupation of the development hereby approved in accordance with details to have been submitted to and approved by the Local Planning Authority beforehand. These features shall be maintained in accordance with the approved details.
16. 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 as part of the scheme.

17. The development shall include at least 2 bird/bat boxes on site, these shall be installed prior to the occupation of the development hereby approved in accordance with details to have been submitted to and approved by the Local Planning Authority beforehand. The boxes shall be maintained in accordance with the approved details.
18. The development shall be carried out in accordance with the submitted flood risk assessment For Demolition of Bungalow & Erection of 3 Houses – Chapel Lane West, completed by The Planning and Environment Studio and dated November 2019 and the following mitigation measures it details:
 - Lower ground floor, finished floor levels to be set no lower than 92.550m above Ordnance Datum (AOD).These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
19. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.
20. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - o Risk assessment of potentially damaging construction activities.
 - o Identification of "biodiversity protection zones".
 - o Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - o The location and timing of sensitive works to avoid harm to

biodiversity features.

o The times during construction when specialist ecologists need to be present on site to oversee works.

o Responsible persons and lines of communication.

o The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

o Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

21. Prior to the commencement of development, a lighting strategy shall be submitted to and approved in writing by the Council. Such approved measures must be implemented in full and maintained thereafter.

22. Obscure glazing to a Pilkington Scale level 4 shall be utilised on the windows of the eastern elevations of the proposed dwellings. These windows only, shall be installed and retained obscurely glazed thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reasons for conditions

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. 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. In the interest of satisfactory and sustainable drainage.
4. To ensure that no surface water discharges take place until proper provision has been made for its disposal.
5. In the interests of highway safety.
6. In the interests of residential amenity.
7. In the interests of the amenity of the occupants of existing and proposed dwellings.
8. In the interests of highway safety.
9. In the interests of air pollution.
10. In the interests of highway safety

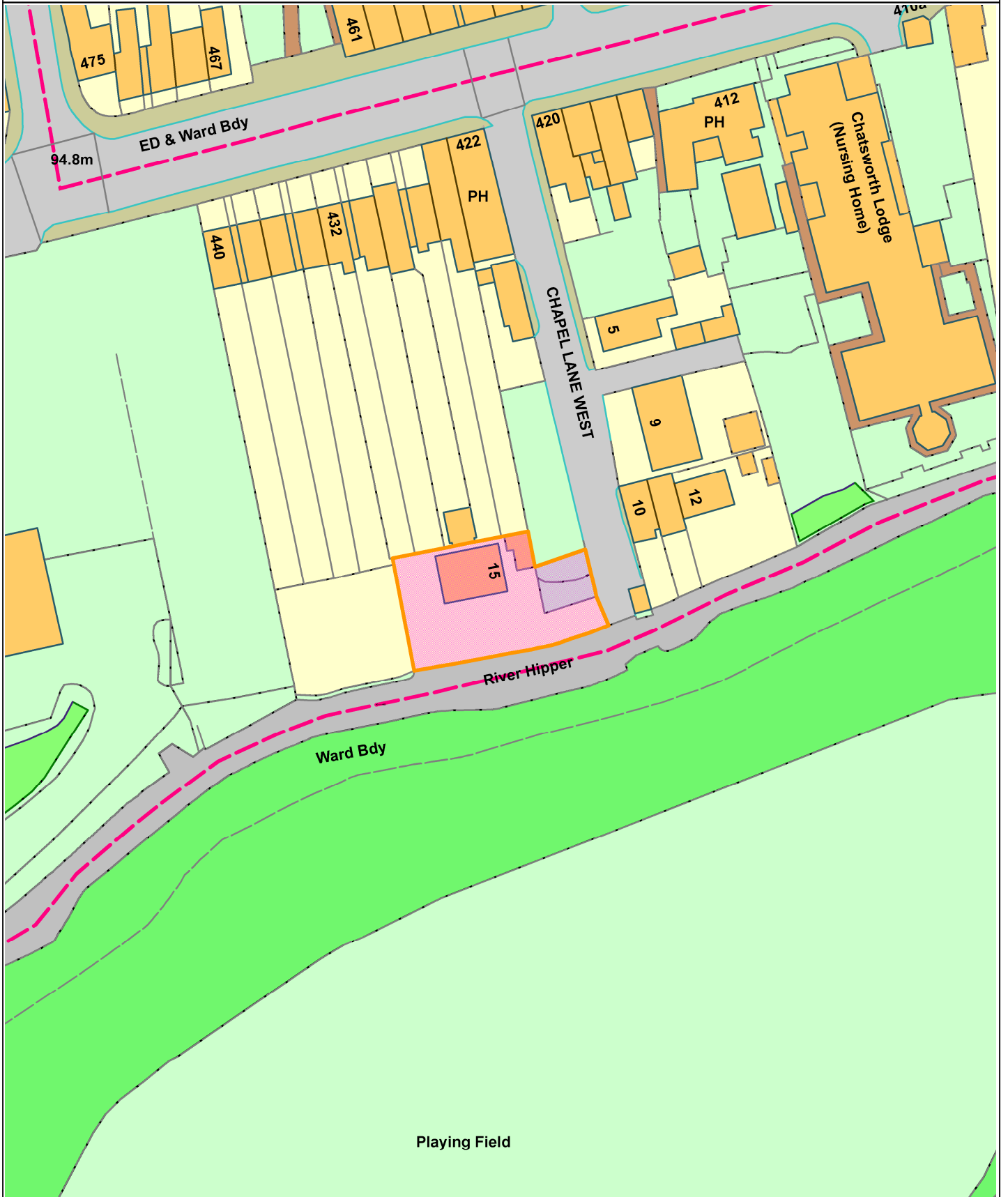
11. In the interests of highway safety
12. In the interests of highway safety
13. In the interests of highway safety
14. Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.
15. In the interests of biodiversity in the area.
16. To prevent the increased risk of flooding
17. In the interests of biodiversity on site.
18. To reduce the risk of flooding to the proposed development and future occupants.
19. To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.
20. In the interests of biodiversity in the area.
21. In the interests of biodiversity in the area.
22. In the interests of residential amenity in the area.

Notes

1. 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 & Communities 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/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
2. 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.

3. 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.
4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. 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.
6. 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 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.
7. The buildings 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.



CHESTERFIELD
BOROUGH COUNCIL

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ITEM 3

**DEMOLITION OF EXISTING GARAGE AND ERECTION OF ONE
DETACHED DWELLING ON LAND TO THE SIDE (REVISED DRAWINGS
RECEIVED 31.01.2020, 02.03.2020 AND 30.03.2020) 3 QUARRY BANK
ROAD, SPITAL, CHESTERFIELD, S41 0HH**

Local Plan: Unallocated

Ward: St Leonards

Plot No: 2/4769

1.0 CONSULTATIONS

Ward Members	No comments received
Strategy/Forward Planning	Comments received – see report
Environmental Services	Comments received – see report
Design Services Drainage	Comments received – see report
Yorkshire Water Services	No comments received
DCC Highways	Comments received – see report
The Coal Authority	Comments received – see report
Neighbours and Site Notice	One letter of representation received – see report

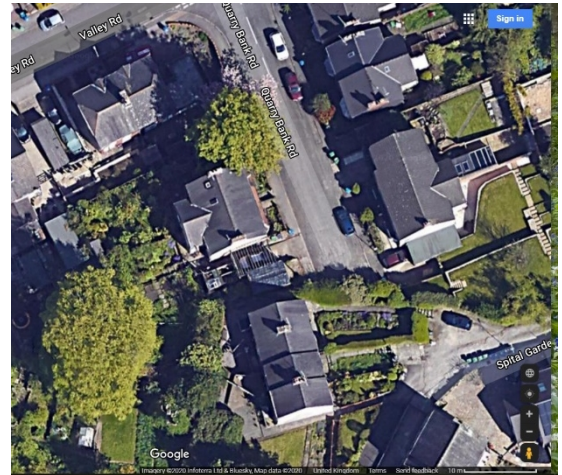
2.0 THE SITE

2.1 The site subject of this application is located on the west side of Quarry Bank Road, a small residential cul-de-sac located within built form of Spital. The plot currently forms part of the curtilage of No 3 Quarry Bank Road and consists of a raised concrete driveway and detached garage to the south of the existing dwelling. The remaining plot to the west of the dwelling comprises of garden amenity space, largely laid to lawn with some soft planting.

2.2 The site measures 12.8m in length along the northern boundary, 4.8m in width on the Quarry Bank Road frontage and 5.6m in width at the western boundary. The site measures approximately 230m² in area (0.023 hectares) overall (see photos and location plan below)



Extract of submitted location plan



Aerial photo taken from Google ©



Photo taken from Quarry Bank Road facing south west



Photo taken from applications site facing north east

2.3 The surrounding streetscene is formed of residential dwellings. The architectural character of the immediate streetscene is characterised by two storey, semi-detached dwellings faced in brick which are varied in design.

2.4 Access to the site is gained by an adopted public highway which rises steeply from Valley Road highway to the north. There is no formal turning head at the end of the cul-de-sac. The cul-de-sac currently serves 7 dwellings. Due to the variation in land levels from Valley Road towards Spital Gardens to the south, Nos 11 and

10 Spital Gardens occupy an elevated position with respect to the application site.

- 2.5 The site is located in an area considered to be at low risk of flooding (as defined by the Environment Agency) and is considered to be at high risk of coal mining legacy (as defined by The Coal Authority). The site is approximately 800m/1000m (depending on the route taken) from Chesterfield Sub-Regional Town Centre.

3.0 RELEVANT SITE PLANNING HISTORY

- 3.1 None relevant

4.0 THE PROPOSAL

- 4.1 The application seeks consent for the demolition of the existing detached garage and the erection of one detached dwelling. Revised plans indicate a 2 storey, 2 bedroom dwelling measuring 68m² in footprint overall. The proposed dwelling is set back from the public highway and incorporates two off-street parking spaces, one serving the existing dwelling (No 3) and one serving the proposed dwelling (see site layout plan below).



Proposed Site Layout (Revision C)

- 4.2 The proposed dwelling is formed of a dual pitched roof measuring 5.7m to the eaves, taken from the principle (east) elevation. Due to the variation in levels across the site the dwelling measures 8.5m to the ridge (taken from south elevation) and 9.5m to the ridge (taken from the north elevation). The revised scheme includes

further details of boundary treatments and a section has been submitted to detail proposed levels across the site.



Proposed Streetscene (Revision B)

- 4.3 The proposal will provide private amenity space which significantly exceeds the minimum recommended requirement of 50sqm for a 2 bedroom property and will retain 70 sqm of amenity space of the existing dwelling (No 3).
- 4.5 Internally the ground floor of the proposed dwelling comprises of a lounge with separate kitchen/dining room with attached utility and downstairs w.c. The first floor of the proposal features two bedrooms and a bathroom. Overall, it is considered that the proposal will provide an acceptable provision of living accommodation.
- 4.6 The application submission is supported by the following plans / documents:
- Application form
 - Supporting planning statement
 - Proposed Dwelling Floor Plans & Elevations, drawing number QBR/PD/01C Revision C (dated 27.03.2020, received 30.03.2020)
 - Site Layout, drawing number JL/QBR/SL/01C Revision C (dated 27.03.2020, received 30.03.2020)
 - Quarry Bank Road Street Scenes, drawing number QBR/SS/01B Revision B (Dated 27.03.2020, received 30.03.2020)
 - Quarry Bank Road Sections, drawing number QBR/PS/01A Revision A (Dated 27.03.2020, received 30.03.2020)
 - Geotechnical, Geo-Environmental & Coal Mining Risk Assessment, produced by groundsmiths, project reference GUK-0519-04 prepared by A Spooner (dated 09.06.2019)

- Appendix A GeoInsight Report
- Appendix B EnvironInsight Report
- Appendix C Historical Ordnance Survey Plans
- Appendix D Coal Authority Consultants Report
- Appendix E Coal Authority 'Guidance for Developers'
- Plates

5.0 CONSIDERATIONS

5.1 Planning Policy Background

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 saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

5.2 Chesterfield Local Plan: Core Strategy 2011 – 2031 ('Core Strategy')

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS4 Infrastructure Delivery
- CS6 Sustainable Design
- CS7 Managing the Water Cycle
- CS8 Environmental Quality
- CS9 Green Infrastructure and Biodiversity
- CS10 Flexibility in Delivery of Housing
- CS18 Design
- CS20 Influencing the Demand for Travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (February 2019)
- SPD 'Successful Places: A Guide to Sustainable Housing Layout and Design' (adopted July 2013)

5.4 **Key Issues**

- Principle of development (section 5.5)
- Design and appearance of the proposal (section 5.6)
- Impact on the amenity of adjoining neighbours and future occupants (section 5.7)
- Highways safety, parking provision and air quality (see section 5.8)
- Biodiversity (see section 5.9)
- Flood risk and drainage (see section 5.10)
- Environmental Quality and Land Stability (see section 5.11)
- Community Infrastructure Levy (CIL) (see section 5.12)
- Representations received (see section 6.0)

5.5 **Principle of Development**

Relevant Policies

- 5.5.1 Policy CS1 states that *'The overall approach to growth will be to concentrate new development within walking and cycling distance of centres.'*
- 5.5.2 Policy CS2 states that when *'assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:*
- a) adhere to policy CS1*
 - b) are on previously developed land*
 - c) are not on agricultural land*
 - d) deliver wider regeneration and sustainability benefits*
 - e) utilise existing capacity in social infrastructure*
 - f) maximise walking / cycling and the use of public transport*
 - g) meet sequential test requirements of other national / local policies'*
- All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*
- 5.5.3 Policy CS10 states that *'Planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or if annual monitoring shows that there is less than a 5-year supply of deliverable sites and where:*

- a) they accord with the strategy of 'Concentration and Regeneration' as set out in policy CS1 and the criteria set out in policy CS2; or
- b) a specific housing need can be demonstrated that can only be met within a particular location'

Consultee comments

5.5.4 To assess whether the principle of development accords with planning policy it was necessary to consult the **Strategy/Forward Planning Team**, the following comments were provided:

5.5.5 *'The proposal is for a single residential dwelling on an area of land adjacent to 3 Quarry Bank Road. The site comprises of an off-road car parking area, a garage and part of the garden associated with 3 Quarry Bank.*

The site is within 800m of Chesterfield Town Centre and therefore is within reasonable walking distance of existing services, facilities, employment, public transport and public open space. Development in this location therefore meets the requirements of the council's Spatial Strategy (CS1) and all of the principles for Location of Development (CS2) with the exception of criterion b which favours proposals on previously developed land.

The application site includes part of a residential garden and therefore technically a greenfield site according to the definition of previously developed land in the NPPF. It is therefore contrary to Policy CS10, given the current position in relation to a 5-year supply of deliverable housing sites. However, given the site's location and broad accordance with the Principles for Location of Development, the principle of development is considered to be acceptable.

Other Matters

Sustainability: Although the Code for Sustainable Homes is no longer applicable, the proposal should still seek to meet the requirements of Policy CS6 to 'contribute to the reduction of CO2 emissions and generation of renewable energy'.

Biodiversity: Policy CS9 seeks to achieve a net gain in biodiversity. To ensure a net gain of biodiversity, provision for bird and/or bat roosting should be installed and secured by condition. Vegetation should be retained and enhanced where possible.

Design: CS18 - The design of the development should be assessed against the criteria set out in the council's design policy, CS18, and the adopted Residential Design SPD 'Designing Great Places'. Policy CS18 states that all development should identify, respond and integrate with the character of the site and its surroundings.

The Highways Authority should be consulted to determine the appropriateness of the parking and access (CS18 g).

The scheme raises a number of issues relating to design and parking, notably the extent to which the proposal extends into the garden beyond the rear elevation of the adjacent property. If the case officer determines that the proposal does not satisfactorily meet all the criteria of CS18, it should be considered contrary to policy.

As the development is expected to provide off street parking for two properties, the provision of suitable infrastructure for electric vehicle charging should be secured by condition in accordance with policy CS20.

Community Infrastructure Levy (CIL) - The development would be CIL liable and falls within the 'medium' zone (charged at £50 per m², Index linked) subject to any exemptions sought for affordable housing or custom/self-build.

Conclusions: The principle of development is acceptable given that it is in a location that accords with the CS in terms of the overall strategy of concentration and regeneration. Consideration should be given towards the extent to which the proposal meets the requirements of Policy CS18.'

Considerations

- 5.5.6 The application site is situated within the built settlement of Spital. The immediate streetscene is residential in character and the wider area features mixed use premises and employment sites. Policies CS1, CS2, and CS10 of the Core Strategy and the wider National Planning Policy Framework (NPPF) are therefore considered to apply. In addition, the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.
- 5.5.7 Core Strategy Policy CS1 seeks to concentrate new development within walking and cycling distances of centres. The site is within

approximately 800m/1000m (depending on the route taken) walking distance of the defined Chesterfield Sub-Regional centre and is therefore in proximity to a range of services, employment opportunities, public open space with access to cycling/walking routes and public transport connections. The site is therefore considered to be sustainably located and accords with the principles of CS1 with regards to the location of the development.

- 5.5.8 Core Strategy Policy CS2 sets out the principles for the location of the development. Part b) requires development to utilise previously developed land. The application site is the former garden of an existing dwelling and as such would not be classified as previously developed land. It is therefore acknowledged that the proposal does not fully meet the requirements of Core Strategy Policy CS2.
- 5.5.9 Core Strategy Policy CS10 refers to the development of unallocated 'greenfield land' as being inappropriate whilst the Council is able to demonstrate a deliverable 5 year supply of housing land. Domestic gardens are excluded for the definition of previously developed land and are therefore regarded as greenfield. CS10 indicates that planning permission should not be granted for the development of residential gardens, however it is accepted that infill plots within established residential areas which are sustainably located and meet the objectives of concentration of development should not necessarily resisted provided the development is at a scale and density appropriate to the area.
- 5.5.10 It is necessary to acknowledged that Policy CS10 will be replaced by emerging policy LP4, which will be more flexible in its wording on sites within the urban area, similar to this one. However as that policy is still the subject of outstanding objections that will need to be addressed through consultation on modifications, little weight can be afforded to the new policy at this stage of plan preparation, as per para 48b of the NPPF.
- 5.5.11 Policy CS10 must be read in combination with policy CS1 and CS2 which sets out that the overall approach to growth which is desirable will be to concentrate new development within walking and cycling distance of centres. The weight given to Core Strategy CS10 is therefore finely balanced and must be considered in the context of each individual application.
- 5.5.12 The opportunity to give more weight to Core Strategy policies CS1 and CS2 must therefore be determined on the basis that the

proposal would not adversely impact the amenity of the adjoining neighbours and would not result in any other issues such as highway safety. Indeed Core Strategy CS2 does require all development to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

- 5.5.13 On balance the proposal is considered to be acceptable in principle. Further detailed discussion of material considerations will be covered in the following sections including impact on the amenity of neighbour/future occupiers, highway safety and parking provision, biodiversity, flood risk and drainage, environmental quality and land stability (covering policies CS2, CS7, CS8, CS9, CS18 and CS20 and Council's adopted SPD 'Successful Places').

5.6 Design and Appearance of the Proposal

Relevant Policies

- 5.6.1 Core Strategy Policy CS18 states that *'all development should 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.'*
- 5.6.2 Core Strategy Policy CS2 states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*
- 5.6.3 The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space and is a material consideration.

Officer Assessment and Considerations

- 5.6.4 The surrounding streetscene shows some variation in architectural style and materials are predominately brick with slate. The proposed dwelling shows consideration to the scale, massing and architectural detailing of the surrounding properties. The application proposes a building faced in brick to match the surrounding dwellings with grey concrete interlocking slates and artstone headers, cills and corbels. The proposed materials are considered to be acceptable, however, it is recommended that formal

clarification of specific roofing and walling materials be controlled by condition requiring the submission of additional details prior to ordering.

- 5.6.5 The 'Successful Places' SPD indicates that a new two-bedroom dwelling would require a minimum of 50 square metres of outdoor amenity space. This level of provision would be comfortably accommodated on the site and is therefore considered to be acceptable and would provide 70sqm of amenity space for the existing dwelling (No 3). Internally the proposal would provide an acceptable standard of accommodation for future occupiers.
- 5.6.6 The scheme has been revised 3 times predominately to address concerns raised regarding overshadowing and overbearing impacts to No 3 including reducing the number of bedrooms in the property for 3 to 2. Further detailed consideration of the impacts on the amenity of the occupiers of No 3 will be covered in the following section.
- 5.6.7 Full details of all hard surfacing and soft landscaping on site have not been provided therefore, it is considered that a condition should be imposed requiring the submission of these details.
- 5.6.8 Having consideration for the observations above the proposal is considered to be acceptable with respect to layout and design and would not result in significant adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the design provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF.

5.7 Impact on the Amenity of Adjoining Neighbours and Future Occupants

Relevant Policies

- 5.7.1 Core Strategy Policy CS2 states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*
- 5.7.2 Core Strategy Policy CS18 states that development must *'(k) have an acceptable impact on the amenity of users and neighbours'*

5.7.3 The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space and is a material consideration.

Considerations

5.7.4 The application site is bound by residential dwellings. Due to the siting and orientation of the proposal, potential impacts on the amenity of the immediate neighbours will be discussed below.

Impact on No 3 Quarry Bank Road

5.7.5 Nos 3 Quarry Bank Road is a two storey semi-detached dwelling situated to the north of the proposed dwelling. The property is by habitable room facing east towards the rear garden (see photo below). Due to the variation in land levels across the site the proposed dwelling occupies an elevated position and is situated to the south of No 3 (see photo below).



Photos taken facing north east towards the rear elevation of No 3

5.7.6 To address concerns regarding potential overbearing and overshadowing impacts the rearwards projection of the proposed dwelling has been reduced. To reduce the height of the single storey ground floor structure an internal step has been introduced. To preserve the amenity of the adjoining occupiers solid screen fencing is indicated to provide privacy with a stepped rear terrace/garden to prevent appearing overbearing.

5.7.7 The submitted plans indicate that the first floor bathroom window in the north elevation will be obscurely glazed, it is therefore recommended that a condition be imposed requiring the window be installed with obscure glazing and retained as such.

5.7.8 It is acknowledged that the proposal will result in a degree of overshadowing to the rear windows of No 3, predominately at

ground floor level. The alterations made to the scheme are considered to mitigate potential impacts and on balance the proposal is considered to be acceptable. The existing dwelling will retain sufficient outdoor amenity space and will be served by one designated off-street parking space. On the basis of the revised plans potential adverse impacts on the amenity of the adjoining neighbour are therefore not considered to be sufficient to warrant a refusal.

Impact on No 11 Spital Gardens

- 5.7.9 No 11 Spital Gardens is a two storey, end of terrace situated to the south of the application site. The property occupies an elevated position with respect of the application site (see photos below)



Photos taken from the application site facing east



Photos taken from the application site facing south

- 5.7.10 Due to the orientation of the application site with respect of No 11, potential adverse impacts of overshadowing are considered to be minimal. The proposed dwelling will be visible from the rear windows of No 11, however the property will be set down due to the variation in land levels, reducing potential overbearing impacts.
- 5.7.11 The submitted plans indicate that the landing window in the south elevation will be obscurely glazed, it is therefore recommended that a condition be imposed requiring the window be installed with obscure glazing and retained as such.

Impact on Nos 10 and 12 Quarry Bank Road

- 5.7.12 Nos 10 and 12 Quarry Bank Road are a pair of semi-detached dwellings situated to the east/north east of the application site. The proposed dwelling is set by 6m from the public highway therefore a

separation distance of approximately 21m exists between direct facing windows. The 'Successful Places' SPD details recommended separation distances between dwellings and facing windows based on the angle of vision. Good practice is 21m between direct facing windows and 12m between rear and side walls. These are accepted 'rules of thumb' and may be relaxed depending on site context. The proposal accords with the recommended separation distances therefore it is not considered that the proposal will result in significant adverse impacts of overlooking or overshadowing.

- 5.7.13 The **Environmental Health Officer** reviewed the proposal and requested that 'construction work' shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include the operation of plant, machinery and equipment including mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials. NB - The above condition takes into account current guidance issued by Derbyshire County Council, Highways Agency and all Utility companies.
- 5.7.14 The **Environmental Health Officer** also requested an additional condition regarding lighting, as no lighting details have been provided it is recommended that an informative note be included to highlight that any lighting should be installed in a manner as to control glare and prevent overspill in nearby residential properties.
- 5.7.15 Further consideration of potential land quality/contamination issues will be covered in section 5.11 Based on the observations listed above and subject to the inclusion of relevant conditions, the proposal is considered to accord with the provisions of policy CS2 and CS18 of the Core Strategy and the wider NPPF.

5.8 Highways Safety, Parking Provision and Air Quality

Relevant Policies

- 5.8.1 Core Strategy Policy CS18 states that development will be expected to part '*g) provide adequate and safe vehicle access and parking*'
- 5.8.2 Core Strategy Policy CS20 states that development proposals should demonstrate the following '*c) ... appropriate parking*

provision in accordance with the guidance set out in Appendix G' and requires the installation of electric charging facilities (part e).

- 5.8.3 *Core Strategy Policy CS2 states that 'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*

Consultee comments

- 5.8.4 The **Local Highways Authority** Derbyshire County Council Highways were consulted on the scheme and initially objected to the original submission. A revised scheme was submitted and reviewed by the **Local Highways Authority** and the following revised comments were provided;

- 5.8.5 *'The application site currently provides off-street parking for the existing dwelling and although the application form indicates only one existing space, it is considered that two cars could be accommodated. Quarry Bank Road is steep, rising up from Valley Road and has no formal turning facility.*

The proposal would provide one off-street parking space each for the existing and proposed dwelling and as you are no doubt aware, for two/three bedroom dwellings the Highway Authority would generally look for the provision of two off-street parking spaces. In addition, spaces should measure a minimum 2.4m x 5.5m and certainly the length would appear to be short of this although perhaps could be increased. Parking should be provided in line with your Authority's standards and no doubt you will consider the implications of a lack of or reduced level of parking especially at the end of the cul-de-sac where no formal turning facility exists.

Whilst not an ideal situation, should you be minded to grant planning permission then it is recommended that the following conditions are included in any consent.

1. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed

designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

2. The proposed dwelling shall not be occupied until space has been laid out within the site in accordance with the application drawing for the parking of a vehicle for the existing and proposed dwelling. Once provided, the spaces shall be maintained free from any impediment their designated use for the life of the development.

3. There shall be no gates or other barriers on the access/driveway.

4. The proposed access/driveway to Quarry Bank Road shall be no steeper than 1:12 over its entire length.

5. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

In addition, the following notes shall be included for the benefit of the applicant.

1. 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.

2. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

3.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.'

- 5.8.6 The **Environmental Health Officer** reviewed the proposal and highlighted *'As the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017), I ask that infrastructure for electric charging points be installed as part of the build phase.'*

Considerations

- 5.8.7 The comments from the Local Highways Authority have been noted. The proposal will provide off-street parking for two vehicles, one space designated for the proposed dwelling and one designated space for the existing No 3 Quarry Bank Road to address the shortfall in off-street parking. Appendix G of the Core Strategy states that for a 2/3 bedroom dwelling a recommended maximum of 2 off-street parking spaces should be provided. It is therefore acknowledged that the proposal will provide less off-street parking than the recommended maximum, however, it is worth noting that this is a recommended 'maximum' and Appendix G continues to state that the level of parking provision should be appropriate based on the site context, availability of on-street parking and accessibility of the development.
- 5.8.8 Parking provision for surrounding properties is mixed and the cul-de-sac serves a limited number of properties. The proposal is located in a sustainable location in walking distance of the main regional centre. Quarry Bank highway is steep with no formal turning head. The provision of perpendicular parking to the highway would enable users to drive into the space and reverse outwards, whilst reversing onto the public highway would not usually be ideal the site is located at the end of a cul-de-sac and this parking arrangement would enable vehicles to turn. The street is relatively wide and it is considered that additional vehicles could park on the road if necessary.

- 5.8.9 The Local Highways Authority have not objected to the scheme and recommended that if approved 5 conditions be imposed. It is recommended that conditions 2, 3, 4 and 5 be imposed and the wording of condition 5 be amended as it is not considered that it is essential for this information to be submitted prior to commencement of the development. Condition 1 requires the submission of site compound details including storage of plant/materials and space of parking/manoeuvring of vehicles. Due to the constraints of the site there is limited space to accommodate the requested site compound/storage area it is unlikely that a compound area could be maintained throughout the construction period without fundamentally impacting the development of the site. It is therefore not considered necessary or reasonable to impose this as a condition. The recommended informative notes shall be included on the decision notice.
- 5.8.10. In so far as Air Quality, one electric charging point for the new dwelling should be installed as part of the build phase and controlled by condition.
- 5.8.11 Subject to the imposition of the conditions requested above the proposal is considered to accord with the provisions of CS2, CS18 and CS20 of the adopted Core Strategy.

5.9 Biodiversity

Relevant Policies

- 5.9.1 Core Strategy Policy CS9 Green Infrastructure and Biodiversity states that 'Development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance' and the enhancement of the boroughs biodiversity (f).
- 5.9.2 The NPPF also requires net gains in biodiversity (see paragraph 170 d).

Considerations

- 5.9.3 The site subject of the application currently comprises of concrete platform and detached garage and to the rear is existing garden space mainly laid to lawn with some soft landscaping. A large beech tree located in the neighbouring garden is a key and

dominant feature. The proposal is not considered to encroach on the root protection area of the tree.

- 5.9.4 It is considered that there is scope for new planting within the proposed garden area, 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 could be included. It is therefore recommended that a condition be imposed requiring the development to demonstrate a net gain in biodiversity in accordance with the requirements of CS9 and the NPPF.

5.10 Flood Risk and Drainage

Relevant Policies

- 5.10.1 Core Strategy Policy CS7 Managing the Water Cycles states that *'The council will require flood risk to be considered for all development commensurate with the scale and impact of the proposed development'* and *'Sustainable Drainage Systems (SuDS) should be incorporated into all development, unless it can be demonstrated that this is not appropriate in a specific location. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance'*
- 5.10.2 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 CS7 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

Consultee Comments

- 5.10.3 No comments were received from **Yorkshire Water**.
- 5.10.4 **Design Services (Drainage) Team** reviewed the application and provided the following comments; *'The site not shown to be at risk of flooding according to the environment agency flood maps. The site should be developed with separate foul and surface water*

drainage systems. Any connections to the public sewerage network will require prior consent from Yorkshire Water.'

Considerations

- 5.10.5 The Planning Agent provided further comments with respect to surface water; *'The applicant has confirmed that his existing property is served by a combined surface water and foul sewer. Whilst it is understood that options for surface water drainage will need to be explored, and that separate systems will be required within the site, it may be necessary for the separate on-site systems to ultimately go to the combined sewer. We would be grateful if you could ensure that any planning conditions allow for all options to be explored and perhaps a note rather than a condition would be the most appropriate way to enable this to be explored and addressed at the Building Regs/construction design stage.'*
- 5.10.6 The above comments have been noted. Policy CS7 requires all development to consider sustainable drainage systems to deal with surface water arising as a result of the development, it is therefore recommended that a condition be imposed requiring the submission of proposed surface water drainage limitation measures be submitted to the LPA for written approval to accord with the provisions of CS7. An informative note should be imposed highlighting that the proposal should be developed with separate foul and surface water drainage were possible, and this would need agreement with Yorkshire Water.

5.11 Environmental Quality and Land Condition

Relevant Policies

- 5.11.1 Core Strategy Policy CS8 states that *'Unstable and Contaminated Land: Proposals for development on land that is, or is suspected as being, contaminated or unstable will only be permitted if the land is capable of remediation and fit for the proposed use and shall include:*
- a) a desk top survey with the planning application*
 - b) a phase II study and strategy for remediation and final validation where the desk top survey (a) indicates remediation may be necessary, on any full or reserved matters planning applications*

A programme of 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.'

- 5.11.2 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.'*
- 5.11.3 The planning application site lies in an area considered to be at high risk of former coal mining legacy, having regard to the requirements of the NPPF and policy CS8 of the Core Strategy the application was referred to **Environmental Health Team** and **The Coal Authority** for comments.

Consultee Comments

- 5.11.4 The **Environmental Health Officer** reviewed the application and raised no concerns regarding contaminated land. Consideration of air quality and electric charging provision are detailed in section 5.8,
- 5.11.5 **The Coal Authority** reviewed the application and provided the following comments; *'The application site falls within the defined Development High Risk Area; therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's information indicates that the site lies in an area where historic unrecorded underground coal mining is likely to have taken place at shallow depth.*

The application is accompanied by a Geotechnical, Geo-Environmental & Coal Mining Risk Assessment (9 June 2019, prepared by Groundsmiths (UK) Ltd). Based on a review of

appropriate sources of coal mining and geological information, the submitted report concludes that possible historic unrecorded coal and/or ironstone mining legacy poses a low to moderate risk to the proposed development.

Accordingly, the report makes appropriate recommendations for the carrying out of intrusive ground investigations, in the form of boreholes, in order to further assess the risk posed by shallow mining legacy and to inform any necessary mitigatory measures.

The Coal Authority welcomes the recommendation for the undertaking of intrusive site investigations. These should be designed by a competent person to properly assess ground conditions and to establish the exact situation regarding coal mining legacy which could pose a risk to the proposed development. The applicant should ensure that the exact form of any intrusive site investigation is agreed with the Coal Authority's Permitting Team as part of their permit application.

The findings of the intrusive site investigations should be interpreted by a competent person and should be used to inform any mitigation measures, such as grouting stabilisation works and foundation solutions, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

The submitted report advises that, should mine workings be proven during ground investigations, it would be prudent to adopt gas protection measures in lieu of undertaking ground gas monitoring.

The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Geotechnical, Geo- Environmental & Coal Mining Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site and to inform any remedial measures necessary to ensure the safety and stability of the proposed development.

Should planning permission be granted for the proposed development, a condition should therefore require the following prior to the commencement of development:

- *The undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity;*
- *The submission of a report of findings arising from the intrusive site investigations and a scheme of proposed remedial works for approval; and*
- *The implementation of those remedial works.*

*The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of a condition to secure the above.***

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.'

Considerations

5.11.6 Based on the comments listed above, subject to the imposition of a condition requiring intrusive site investigation and the submission of findings and proposed remedial/mitigation works for formal approval the proposal is considered to accord with the principles of CS8 and paragraph 178 of the NPPF.

5.12 Community Infrastructure Levy (CIL)

5.12.1 The application proposes the creation of new dwellings and the development is therefore CIL Liable.

5.11.2 The site the subject of the application lies within the medium CIL zone (£50/sqm) and therefore the CIL Liability would be based on the calculations of gross internal floor space of the development.

			A	B	C	D	E
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Development Type	Proposed Floorspace (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)	CIL Charge
Residential (C3)	68	35.5 (36)	32.5 (33)	£50	334	288	£1971

$\text{Net Area (A)} \times \text{CIL Rate (B)} \times \text{BCIS Tender Price Index (at date of permission) (C)} = \text{CIL Charge (E)}$

BCIS Tender Price Index (at date of Charging Schedule) (D)

$$\frac{33 \times 50 \times 344}{288} = \text{£1971 (rounded up)}$$

6.0 REPRESENTATIONS RECEIVED

6.1 The application has been publicised by neighbour notification letters sent on 06.12.2019 and 12.03.2020. A site notice was also displayed on 30.12.2029. As a result of the neighbour notification process 1 letter of representation has been received.

6.2 Neighbour (16.03.2020) – not specified

- *The proposed dwelling seems unnecessarily high – it doesn't appear to be proportionally stepped down in line with properties to the left and right. This will have a direct impact on the views straight into our property from the upper storey windows.*
- *The roof also seems to be particularly high, and we can't see how there is any benefit to having such a high roof. There are no plans for a loft in the floor plan/elevation, and we understand newly built properties don't often have such high rooves so this also seems unnecessary.*
- *We would ask that every effort is made to make the roof/whole dwelling as low as possible as this has a direct impact on light we get in the evening (which is when we spent the majority of our time in our property).*

6.3 **Officer comments – the above comments have been noted**

- **The proposed dwelling has been designed to respond to the constraints of the site and the surrounding streetscene.**

The ridge line is stepped above No 3 Quarry Bank Road and is set below No 11 Spital Gardens, this reflects the character of the surrounding properties and is considered to be acceptable

- **See section 5.7 for further consideration on separation distances and overshadowing impacts on neighbouring properties**

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 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objector, the development has the potential to affect their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in

line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for. Pre application advice was sought and provided.

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 CONCLUSION

9.1 Overall the proposal is considered to be acceptable in design and appearance terms. The proposed dwelling is considered to be in keeping with the character of the surrounding area. The location of the proposed development site is relatively sustainable with access to a range of local services. It is not considered that that the proposal would result in significant impact on the residential amenity of the neighbouring properties subject to the imposition of conditions outlined within the report. The proposal would provide adequate parking arrangements and would not result in highway safety concerns. Therefore, subject to conditions the proposal is considered to accord with policy CS1, CS2, CS4, CS7, CS8, CS9, CS15, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031, adopted 'Successful Places' SPD and the wider National Planning Policy Framework. This application would be liable for payment of the Community Infrastructure Levy.

10.0 RECOMMENDATION

10.1 That a CIL Liability Notice be served in line with paragraph 5.12 above.

10.2 That the application be **GRANTED** subject to the following conditions and notes:

Conditions

Time scale

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.

Approved plans

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
 - Application form
 - Supporting planning statement
 - Proposed Dwelling Floor Plans & Elevations, drawing number QBR/PD/01C Revision C (dated 27.03.2020, received 30.03.2020)
 - Site Layout, drawing number JL/QBR/SL/01C Revision C (dated 27.03.2020, received 30.03.2020)
 - Quarry Bank Road Street Scenes, drawing number QBR/SS/01B Revision B (Dated 27.03.2020, received 30.03.2020)
 - Quarry Bank Road Sections, drawing number QBR/PS/01A Revision A (Dated 27.03.2020, received 30.03.2020)
 - Geotechnical, Geo-Environmental & Coal Mining Risk Assessment, produced by groundsmiths, project reference GUK-0519-04 prepared by A Spooner (dated 09.06.2019)
 - Appendix A GeoInsight Report
 - Appendix B EnvironInsight Report
 - Appendix C Historical Ordnance Survey Plans
 - Appendix D Coal Authority Consultants Report
 - Appendix E Coal Authority 'Guidance for Developers'
 - Plates

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.

Hours of operation

3. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out 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 - In the interests of residential amenities.

Land stability/Coal Mining Legacy

4. Development shall not commence until a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity has been submitted to the Local Planning Authority for written approval. The submission shall include a report of findings arising from the intrusive site investigations and a scheme of proposed remedial works/mitigation measures required to ensure the stability of the site. Only those remedial works/mitigation measures which receive the written approval of the Local Planning Authority shall be implemented on site

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in accordance with the requirements of CS8 and the NPPF.

Highways

5. The proposed dwelling shall not be occupied until space has been laid out within the site in accordance with the application drawing 'Site Layout, drawing number JL/QBR/SL/01C Revision C (dated 27.03.2020, received 30.03.2020)' for both the parking of a vehicle for the existing and proposed dwelling. Once provided, the spaces shall be maintained free from any impediment their designated use for the life of the development.

Reason – in the interests of providing sufficient off-street parking and in the interests of highway safety in accordance with policies CS2 and CS20.

6. There shall be no gates or other barriers on the access/driveway.

Reason – in the interests of highway safety in accordance with policies CS2 and CS20.

7. The proposed access/driveway to Quarry Bank Road shall be no steeper than 1:12 over its entire length

Reason – in the interests of highway safety in accordance with policies CS2 and CS20.

8. A residential charging point shall be provided for the additional dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

Materials

9. Before ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

No extensions/additional windows

10. 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 (other than garden sheds or

greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings and to prevent additional development which would adversely impact the amenity of the adjoining occupiers.

Drainage/surface water

11. No development above floor-slab/D.P.C level shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. These details shall conform to the Chesterfield Borough Council Minimum Development Control Standards for Flood Risk.

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

12. 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.

13. 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. the means by which the discharge rate shall be restricted to a maximum rate of 3.5 litres per second.

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

Landscaping – hard/soft

- 14.** No development above floor-slab/D.P.C level shall take place until details for the treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) a scaled plan showing trees and plants to be planted:
- b) proposed hardstanding and boundary treatment including measures to prevent surface water discharge to the highway:
- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

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

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

Biodiversity/ecology

- 15.** As part of the landscaping condition referred to above, suitable habitat shall be created that enhances the ecological interest of the site, in line with guidance within Paragraph 175d of the NPPF. This could include native landscaping, retention of existing features of ecological value (such as the hedgerow) and incorporation of bat and bird boxes into the new dwellings.

Reason - In the interests of ecology.

Windows

- 16.** Notwithstanding the details shown on the approved plan Plans and Elevations, the windows listed below shall be installed as detailed and retained as such in perpetuity;
- The first floor bathroom window within the north elevation shall be installed obscurely glazed with a minimum of level 4 obscurity and shall only be fitted with an opening above 1.7m high (measured internally)
 - The first floor landing window within the south elevation shall be installed obscurely glazed with a minimum of level 4 obscurity and shall only be fitted with an opening above 1.7m high (measured internally)

Reason – to protect the amenity of the adjoining neighbours

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.

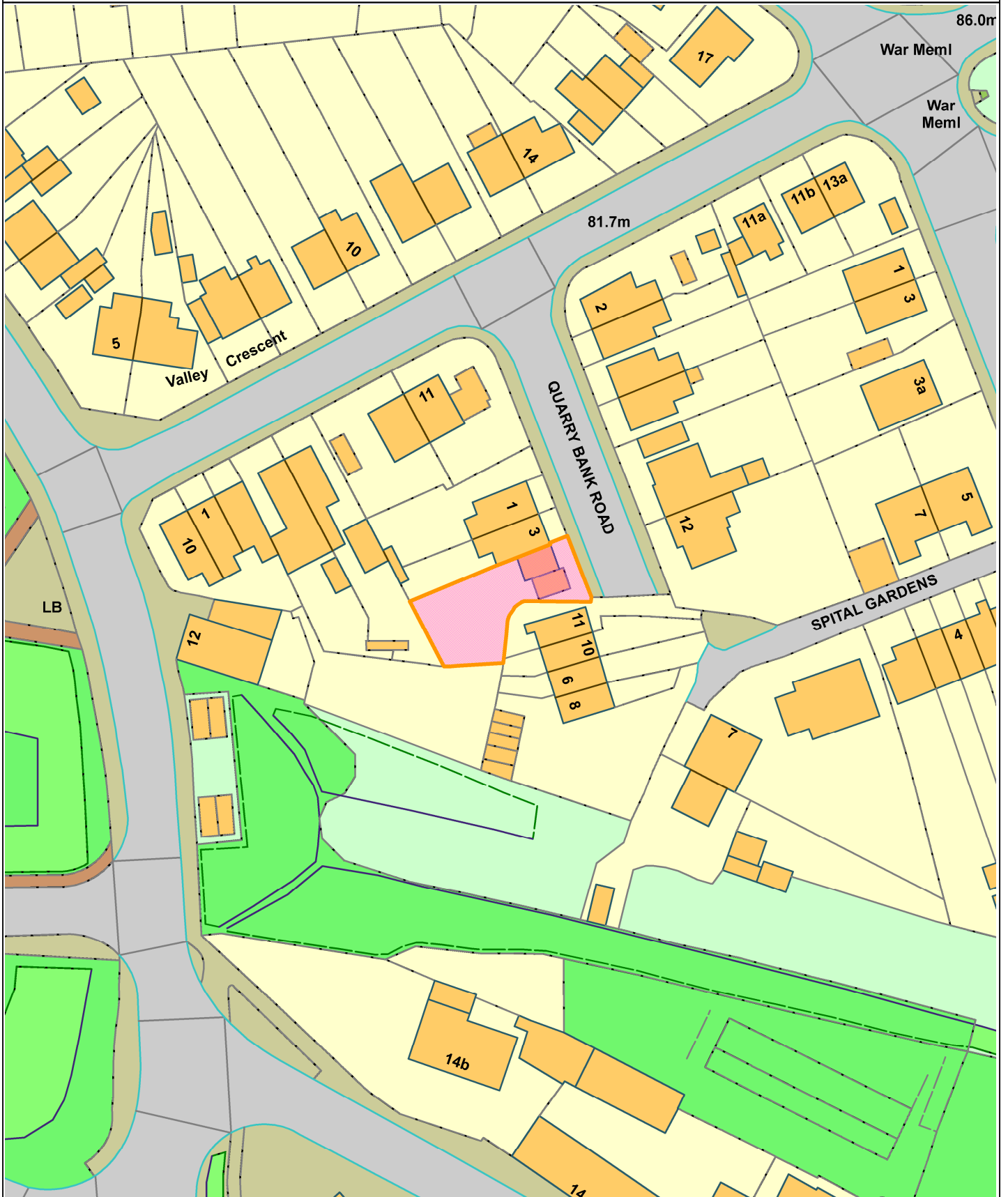
Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

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. The developer should refer to the Council's 'Minimum Standards for Drainage' guidance in preparing any drainage proposals for submission /consideration.
7. 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.
8. 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.
9. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

10. The buildings 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.
11. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties.

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CHESTERFIELD
BOROUGH COUNCIL

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Case Officer: Paul Staniforth File Nos: CHE/19/00509/REM
Tel. No: (01246) 345781 Plot No: 2/1048
Decision date 20th April 2020 (subject to Covid 19 revised procedure)

ITEM 4

CHE/19/00509/REM – Approval of Reserved Matters for access road on land at The Brushes, Sheffield Road, Chesterfield for Birchall Properties Ltd.

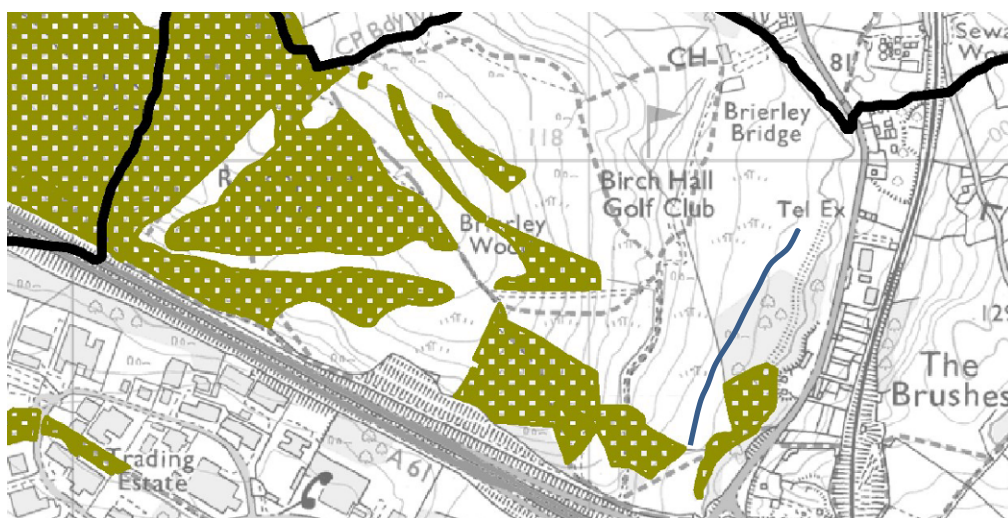
Local Plan: Green Belt
Ward: Old Whittington

1.0 **CONSULTATIONS**

DCC Highways	comments received – see report
Environmental Services	Comment received – see report
Design Services (Drainage)	To be in accordance with CBC drainage guidance
Environment Agency	site outside of flood zones 2 and 3
Derbyshire Wildlife Trust	Comments received – see report
Yorkshire Water	No observations required
Lead Local Flood Authority	No comment received
Coal Authority	Comments received – see report
Derbyshire Constabulary	Comments received – no objection
Ward Members	no representations received
Chesterfield Cycle Campaign	Comments received – see report
Unstone Parish Council	Comment received – see report

2.0 **THE SITE**

- 2.1 The site is within the designated Green Belt area and comprises the currently unused Birchall Golf Course and areas of woodland. Brierley Wood and Roughpiece Woods form part of the site and the areas to the south west are ancient woodland and covered by Tree Preservation Orders. The woodland areas and an area extending along the Sheffield Road frontage are also designated as a local wildlife site and parts are designated as Ancient Woodland.



The extract above is from the Chesterfield Greenprint showing areas of Ancient Woodland, the Borough boundary and the general route of the link road.

- 2.2 The site is bounded by the A61 to the south-west and by the Dronfield by pass to the south, by the river Drone to the south-east, by Unstone Green to the north and by Roughpiece wood to the north-west. It is part of a hilly landscape and presents significant level drops across its boundaries in excess of 100m. The site includes areas of commercial tree planting, gorse, grassland and is edged to the south-west by areas of protected woodland forming a natural buffer to the A61, and to the south-east by the woodland along the river Drone corridor.

- 2.3 The site was the subject of substantial opencast operations up to the 1980s and was subsequently restored to a golf course use (Birchall). Areas of protected ancient woodland on the southern part of the site were not affected by the opencast scheme and which remain today however much of Brierley Wood was destroyed. The golf course is currently not being maintained.
- 2.4 The wider Peak Resort site was up until recently crossed by a number of definitive Public Rights of Way including a bridlepath (BR39) which crossed and ran within the site and which were shown on the definitive plan. There were also a considerable number of 'desire line' paths which criss crossed the site at various locations however all these routes were diverted to a perimeter route which was created around the site following a Diversion Order granted by the Secretary of State on 15th December 2015. The site has subsequently been enclosed by a new fence line.
- 2.5 The site is now served by a new roundabout access situated at the south east A61 slip road corner of the site.
- 3.0 **PLANNING BACKGROUND**
- 3.1 Outline planning approval was granted on 17th August 1989 for the development of the 280 acre Peak Resort site for a major leisure venue under code **CHE/0389/0210**. This included a single domed structure containing hotel together with indoor and outdoor related leisure and educational facilities centred on a reconfigured golf course and lake together with 250 holiday lodges on the upper part of the site. The scheme was described as *leisure centre consisting of a dome containing hotel with indoor and outdoor related leisure and educational facilities provision of accommodation lodges and a lake*. The supporting information with the application provided a schedule of the individual components and their quantum.
- 3.2 A subsequent Reserved Matters permission was made in 1992 for the scheme under code **CHE/0892/0496** and which was not determined until 1st July 2008. This dealt with a phase 1 of the scheme and reserved further detail for subsequent approval and the scheme therefore remains valid since the original condition on the outline permission allowed the scheme to be begun

(implemented) before the expiry of two years from the date of approval of the last of the reserved matters to be approved.

- 3.3 A number of formal changes have been made to the scheme over the years with amendments to the conditions in 2005 under code **CHE/0301/0164** and which resulted in a S106 agreement dated 10th August 2005 concerning highway matters, travel planning, ecology management and Community Liaison. This scheme also resulted in the introduction of a breaking down of the original single domed structure into a phased scheme where by individual smaller components of the scheme could be provided. An alternative access to the site was also considered and agreed under code **CHE/09/00075/FUL** on 12th November 2009 and this resulted in the access to the site being created from a new roundabout at the junction of the A61 slip road with Sheffield Road.
- 3.4 The permission to amend the scheme granted in 2005 included the diversion of all routes crossing the site to the perimeter of the site and this was realised through SCRIF funding of £2.8m to implement the creation of the new access and s278 agreement, diversion of the footpath and bridle routes and new fencing as a way of facilitating the development.
- 3.5 Approvals for formal variation of a number of conditions were secured under permissions **CHE/14/00086/REM1**; **CHE/14/00087/REM1**; **CHE/14/00088/REM1** and **CHE/14/00089/REM1** on 2nd May 2014 and separate applications for the discharge of relevant pre-commencement conditions in the various permissions had been given on 12th November 2014 to allow works to progress on site. (Codes **CHE/14/00385/DOC**; **CHE/14/00386/DOC**; **CHE/14/00387/DOC**; **CHE/14/00388/DOC** and **CHE/14/00558/DOC**).
- 3.6 Further variations of conditions were secured in 2016 under permissions **CHE/16/00317/REM1** regarding maximum length of permitted stay; **CHE/16/00318/REM1** regarding relocation of car park; **CHE/16/00319/REM1** regarding inclusion of phase 2 apart hotel in phase 1 and **CHE/16/00320/REM1** regarding relocation of clubhouse. Permission **CHE/16/00219/NMA** introduced condition 52 allowing s73 submissions to consider amended drawings.

- 3.7 The submissions included Phase 1 of the development comprising of a domed visitor/arrival building, a 150-room hotel building incorporating, a 400-bed university building, a union building for accessing both the hotel and university buildings, landscaping and public realm facilities including a colonnade, new lake and amphitheatre. Phase 1 also includes a clubhouse with 30 No 5* lodges located at the top of the hill to the west of the 2008 consented dome. Phases 2 and 3 of this development remained unchanged from the 2008 consented drawings, with the exception of an observation tower adjacent to the arrival dome which will be part of Phase 2.
- 3.8 The agreed scheme included a domed structure arrival point on the site intended to provide a multifunctional, all-weather activity and events space to accommodate a visitor/arrival centre with transport interchange, information kiosks, ancillary retail, food & drink, assembly and event functions.
- 3.9 The agreed 150-room Hotel has a stepped 8 storey design incorporating a 360 degree glazed sky lobby, a restaurant, wellness and beauty spa facilities and other hotel amenities and which offers for a range of different visitors at a variety of price bands. As well as accommodation for tourists, the facility would cater for local businesses and the wider public through provision of conferences and meeting facilities, weddings and events. The sky lobby at level 8 would be a beacon and an exciting and exclusive destination. A 400-bed dual usage Tourist Hostel and University accommodation Building would also be occupied by students during term time, but its flexible design would allow for use as additional hotel rooms during the summer months to maximise the variety of accommodation and price ranges available across the resort as a whole. This component would be seven storeys high with a stepped roof line and would include some classrooms and meeting areas.
- 3.10 The scheme also included a Union building linking the structures and which allows for accessing both the hotel and university buildings. This would be a crescent shaped 6 storey building creating a spatial and visual break between the university and hotel

accommodation wings and which would be intended as a common area with a flexible floor plan incorporating retail, restaurants, bars and cafés as well as areas for assembly, meetings and education.

- 3.11 Access to all buildings referred to above was shown to be linked via a double height colonnade overlooking a central lake and amphitheatre.
- 3.12 The phase 1 scheme also included a 30-unit Clubhouse and Lodges located at the top of the hill to the west of the 2008 consented dome where a group of lodges were previously shown. This was to be a 5* facility linked together by a funicular and containing restaurant, bar, beauty and wellness medical facility and other ancillary functions such as meeting rooms.
- 3.13 Application **CHE/19/00394/REM** agreed an Approval of Reserved Matters for two separate buildings including an Adventure Centre and an Open Sided Activity Canopy building for David Lloyd Adrenaline World. The approval was dated 16th October 2019.
- 3.14 Application **CHE/19/00456/REM1** also agreed on 16th October 2019 to a s73 variation of Condition 52 of application CHE/0892/0496 to substitute drawings to enable relocation of approved phase 1 components within the consented development areas and facilitate revised phasing of the scheme.
- 3.15 A separate application for the discharge of condition 1 of CHE/19/00394/REM concerning ecology survey and safeguarding was considered and agreed under **CHE/20/00094/DOC** on 2nd March 2020.

4.0 **THE PROPOSALS**

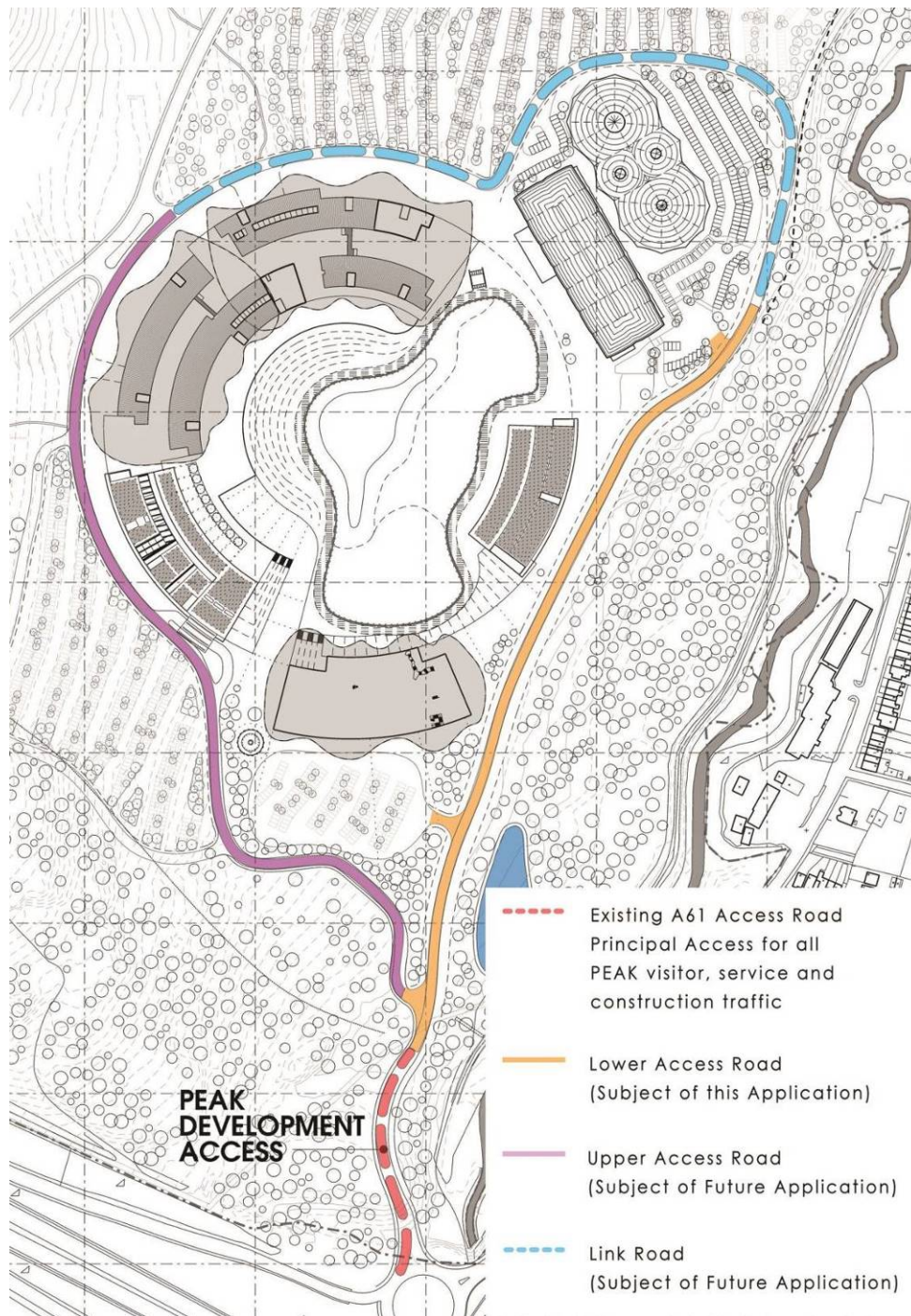
- 4.1 The reserved matters proposal is for a new access road (referred to as the lower access road) linking the recently constructed and adopted roundabout and access spur from Sheffield Road serving the development site to the south east with the recently agreed David Lloyd Adrenaline World (DLAW) dome proposals to the north. The access road and related roundabout was completed in May 2018 and was formally adopted by Derbyshire County Council

in October 2019 and this provides the access route and entrance to the Peak development for the purposes of construction, service and visitor traffic. The lower access road has been designed within the framework of the permissions and conditions in place on the site and will provide the route for day visitors. Stay visitors will access the site via the upper access road.



- 4.2 The access road extends the new road shown above and is to be 500 metres in length and with a 6 metre carriageway with 2 metre footway along its west edge separated from the carriageway by a 2 metre verge. A 6 metre wide under drained swale runs along the length of the east side of the access road and which is to connect to an attenuation lake which is to be designed to accommodate water run off and detail of which is to be provided through responding to conditions imposed on existing permissions. The

submitted detail shows areas of cut where graded embankments would be created alongside the new road.



4.3 The lower access road provides 3 No radii access spurs along its length. The first connects to the intended upper access road which is to run north through semi-improved grassland towards the Peak

development area. The second access spur connects to the intended Gateway building and car park area. The road continues around the development area along the base of the sloping land form and skirting an area of semi natural woodland with gentle gradients and between an area of birch copse which is to be retained providing a sense of arrival at the development area and where access is to be taken via the third spur into the DLAW plot.





4.4 The application is supported by a Design and Access Statement including s38 construction details.

5.0 **CONSIDERATIONS**

5.1 **Planning Policy**

5.1.1 The site is situated within the Green Belt area as defined by Policy EVR1 'Green Belt' of the 2006 Replacement Local Plan. The boundary of the green belt has been retained as existing in the new emerging Chesterfield Local Plan. Policy CS1 of the Local Plan Core Strategy states that the green belt will be maintained and enhanced. Policy CS14 promotes tourism and the visitor economy within the Borough.

5.1.2 Having further regard to the nature of the applications, Policies CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS7 (Managing the Water Cycle), CS9 (Green Infrastructure and Biodiversity), CS13 (Economic Growth), CS18 (Design) and CS20 (Demand for Travel) of the 2013 Local Plan: Core Strategy are applicable as well as the wider National Planning Policy Framework (NPPF).

5.1.3 **Key Issues**

- Principle of the development;
- Design/Appearance and Visual Impact;
- Impact on neighbouring residential amenity;
- Highways Safety;
- Ecology;
- Drainage;
- Land stability;

5.2 **Principle of Development**

5.2.1 The Peak Resort scheme is a priority for Council in that it has the benefit of planning approval and which has been previously agreed and justified within the Green Belt area. This decision was agreed by the Secretary of State at the time as an appropriate development of more than local significance within the Green belt area. The latest Chesterfield Corporate Plan 2015/19 confirms that the Peak Resort scheme is a priority for the Council in terms of making Chesterfield a thriving borough. The scheme was the subject of a significant press release on 15th January 2015 when it was reported that the funding for the £400 million scheme

delivering 1300 jobs had been secured and which gave confidence in investment in the Borough. The scheme has progressed and Stanton Williams Architects remain involved in designing a bespoke scheme for the site and which reflects the requirements of investors.

- 5.2.2 From day one the Peak Resort scheme aims to create a year round tourism, leisure and education destination on the edge of the Peak District National Park, comprising holiday lodges, hotel with leisure / activity base facilities all set within a 300 acre managed park. The David Lloyd Adrenaline World (DLAW) facility has been agreed as a core day visitor attraction consistent with this aim. The activities of all the components across the site will be integrated to provide visitors and students alike world-class opportunities for learning as well as leisure opportunities. The scheme aims to create a destination where outstanding architecture combined with the highest quality of design achieve an iconic resort that maximises the potential of the site. The scheme aims to be exemplary in terms of sustainability from an environmental perspective and to develop successful strategies for the environment and local employment.
- 5.2.3 The scheme is planned to be constructed in phases and phase 1 has now been agreed in the DLAW scheme and which follows the implementation stage which has been completed. The works already undertaken comprising of the new access, diversion of rights of way and boundary fencing and creation of the dome plateau areas have paved the way for the scheme to be progressed.
- 5.2.4 The lower access road is a reserved matters component and provides the link between the adopted public highway and the DLAW development plot. The route follows the principles established from the start and the principle of the connecting roadway is therefore not an issue. It would be perverse now, having constructed and adopted a major access intervention with Sheffield City Region Infrastructure funding, and approval of the David Lloyd Adrenaline World plot development, to not allow the access connection between the two. The lower road positioning is generally as already accepted and does not alter the parameters

set by the existing permissions with regard to location, scale and quantum of development all falling within what has already been assessed and granted.

5.3 **Design / Appearance and Visual Impact**

- 5.3.1 In accordance with Core Strategy Policy CS18, all new development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. In doing so developments are expected to respect the character, form and setting of the site and surrounding area; having regard to its function, appearance, scale and massing.
- 5.3.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these are expected to be applied. It places emphasis on the importance of good design stating:
'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (para 124)
- 5.3.3 The agreed scheme for the wider site comprises of a significant development which would undoubtedly have an urbanising impact on the area and the lower access road component would be a part of that. The route has already been used for vehicular movement across the site as evidenced by the photographs at paragraph 4.3 however the detailed design has been considered to limit the impacts as far as possible by creating a route as close to existing ground contours as possible and by running the route along the lower land levels adjacent, but not through, the riverside woodland area as well as incorporating a landscaped area and swale along its length between the road and woodland area. The route retains a small birch copse at a crest in the levels and which will enhance the sense of arrival at the development and which will also assist in softening views of the road from within the development area.

- 5.3.4 The applicant indicates that landscaping of the lower road will emphasise the transition from a major public highway into the private countryside setting of the scheme. Native species are to be used in keeping with the local context however the precise detail of the landscaping scheme will be the subject of more detail under a Discharge of Condition submission.
- 5.3.5 The detailed lighting scheme is to be designed to limit visual impact by use of low level bollard lighting and LED street lighting. The lighting will be arranged to reduce illumination during off peak times and during the hours of darkness and will be high efficiency low energy light sources to minimise energy requirements. The applicant refers to the management policies of the resort which will ensure that light levels are kept to a minimum after hours. Again the precise details of the lighting can be secured via a condition of approval.
- 5.3.6 It is considered that the proposals are acceptable and within the parameters of the original design for the scheme. In this respect the proposals are not considered to be of a poor design and therefore accord with policy CS18 and the wider requirements of the NPPF

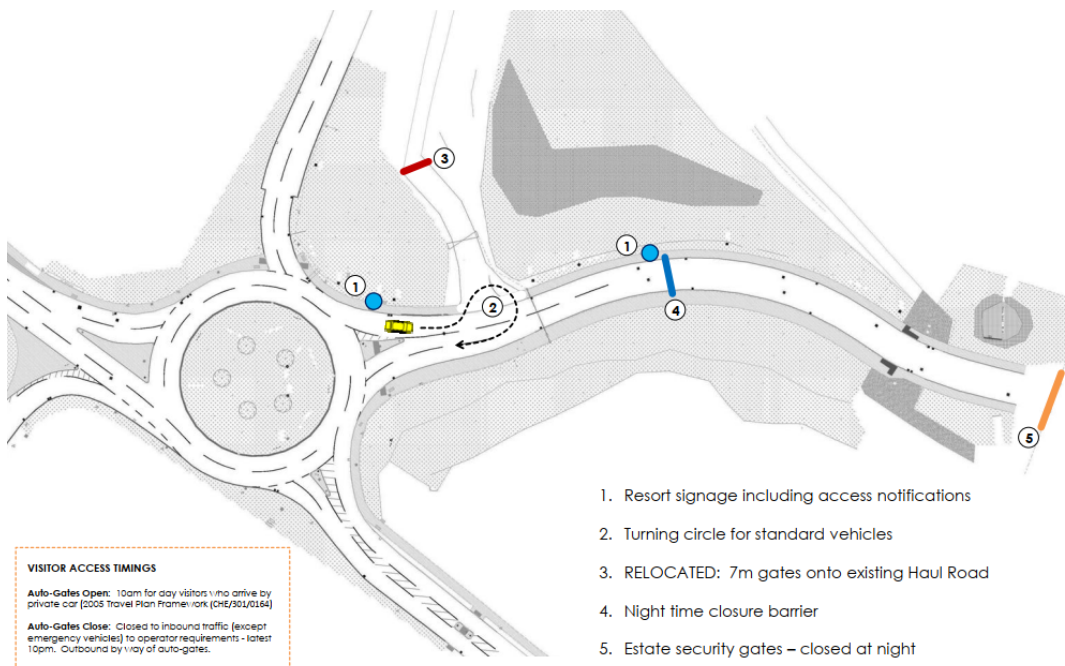
5.4 **Residential Amenity**

- 5.4.1 Core Strategy Policy CS18 comments that development will be expected to have an acceptable impact on the amenity of users and neighbours. Policy CS2 (Principles for Location of Development) indicates that all development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.
- 5.4.2 The nearest residential neighbours to the site are those on Cheetham Avenue, Sylvia Road and the Sheffield Road frontage to the north and those on Sheffield Road and Mallory Close to the east however it is likely that the lower access road will not be visible from any of these properties.

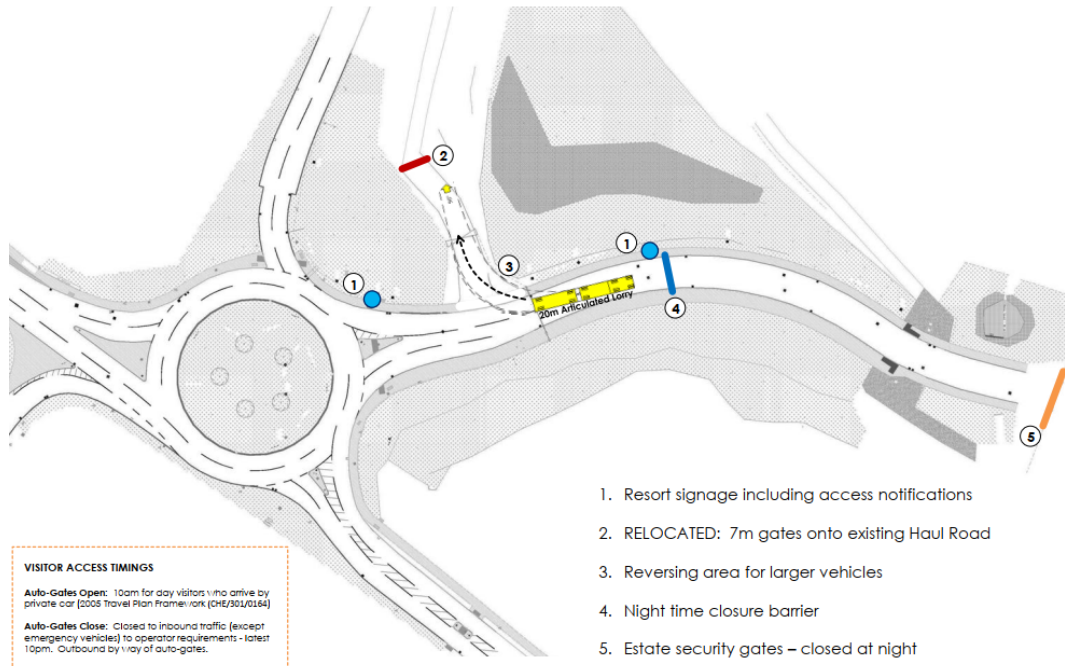
- 5.4.3 There will be opportunities to view the lower access road from the bridle route alongside the river running generally parallel with Sheffield Road. The separating distances range from zero metres where the existing road crosses the route to the south of the proposed road up to between 100 - 115 metres along the majority of its length and down to 50 metres at its northern end. There is however an intervening woodland area and the road would be at ground level and landscaped along the woodland side and would be seen against the backdrop of the buildings which would be constructed on the site.
- 5.4.4 On this basis the proposals are considered to be acceptable in so far as they impact on the amenity of locals and which satisfy policies CS2 and CS18 of the Core Strategy.
- 5.5 **Highways Safety**
- 5.5.1 The proposed lower access road extends the route already constructed into the site and which becomes the main route into the site. The proposal is detailed to s38 specifications. The County Council Highway Authority (HA) has commented that improvements to the existing highway network have been carried out to support development of the wider Peak Resort scheme and that the previous Traffic Statement concluded that the proposals should have no greater impact on operation of the highway than the development already consented and that the Highway Authority does not consider that there is an evidence base to suggest that this conclusion is incorrect. There are already measures in place to manage car parking and to reduce the reliance on the private motor vehicle through travel plan initiatives. In so far as the proposed lower road, the HA has confirmed that the s38 details appear to suggest offering the entire lower access road for adoption however it is the case that the road will not be considered for adoption. The HA comment that an adoptable turning head will need to be created at the terminal point of the roundabout spur and the current layout is not suitable.
- 5.5.2 The applicant does not intend for the lower road to be put forwards for adoption and it will remain a private estate road however it has been designed and specified to adoption standards. It is the case

that Derbyshire County Council has agreed and adopted the new roundabout access which provides a spur into the Peak site and which does not include a turning head facility. It is therefore the case that vehicles taking a wrong turn into the site from the roundabout may not be able to turn and would potentially end up reversing out onto the roundabout under circumstances which are contrary to the best interests of highway safety. This is currently the position and the proposed scheme will allow for a resolution of the issue. The applicant has confirmed that during the operating day the gates to the Peak Resort site at the end of the roundabout spur will be open and any highway user(s) missing the resort signage will be able to travel into the resort site up to the radii points to be provided as part of the scheme or as far as the David Lloyd plot and turn around. At times when the resort is closed (as currently exists), in addition to resort signage which can be provided, the opportunity arises for turning arrangements within the available space in advance of the resort gates as shown on the diagrams below.

NIGHT TIME SECURITY & TURNING AREA: for standard vehicles & lorries
 Response to Highways Agency Turning Head Observation



VISITOR ACCESS TIMINGS
Auto-Gates Open: 10am for day visitors who arrive by private car (2008 Travel Plan Framework (CHZ/301/0164))
Auto-Gates Close: Closed to inbound traffic (except emergency vehicles) to operator requirements - latest 10pm. Outbound by way of auto-gates.



There is insufficient space within highway limits to provide a formal turning head on the adopted spur from the roundabout and the HA did not consider this was necessary when designing the scheme however the opportunities to turn exist as shown in the diagrams above and will ensure that no vehicle has to reverse out onto the traffic roundabout.

5.5.3 In so far as the volume of traffic using the access road, the traffic impact of the proposed development has already been accepted as part of previous applications following appropriate consultation and assessment and determination of the first phase David Lloyd Adrenaline World scheme. The current application is therefore not about the impact of any traffic off site and deals solely with the design, routing and standard of the access road proposed to link the adopted highway spur off the new roundabout to the David Lloyd plot.

5.5.4 Chesterfield Cycle Campaign (CCC) commented that there is a shared path constructed on the south eastern edge of the existing (stub) access road from the new roundabout which leads onto the excellent new bridleway built around Peak and that Derbyshire County Council are currently constructing a cycle route between

Whittington Moor roundabout and Peak. CCC comment that anyone wanting to access the facilities at Peak will have to leave the shared path at the start of this new access road and cycle along the road. CCC believe that for good connectivity the shared path should carry on alongside the access road to the proposed 'day visitor' facilities and if provided it will encourage local visitors to use a sustainable means of transport. CCC comment that if a shared route is provided it will be much better to be on the south eastern side of the access road to link directly with the shared path but also to avoid crossing the two junctions proposed giving access to other areas of the site. This is also true of the footway which is proposed. The footway would also be much better to be on the other side of the road shown on the plans to avoid conflict between pedestrians and vehicles turning in and out of the other access roads. CCC presume that any day visitor arriving by bus will have to walk along this footway. As initially proposed CCC objected to the application because it did not prioritise walking and cycling (Core Strategy 20). They also questioned if there will be access to the facilities by walking and cycling from the Unstone Green end of the bridleway?

- 5.5.5 The applicant responded commenting that people using the PROW along the existing access road spur and along the riverside path, including from the Unstone end connection (on a bicycle or on foot) will be able to access the resort site using the additional paths (provided alongside, but well separated from, the private carriageway). Cyclists will also be able to use the private carriageway and the development makes significant provision for cycle 'parking' at the David Lloyd facility.
- 5.5.6 The Cycle Campaign confirm in response that as long as pedestrians and cyclists can access the David Lloyd complex direct from the excellent PROW, ideally direct to the cycle parking and without crossing a road we'll be happy and if that is the case can you email across a plan showing how that will be achieved and the Campaign will withdraw its objection.
- 5.5.7 The applicant produced a plan and sent it to the Cycle Campaign showing the interface between the existing public rights of way and the proposed continuation of the private estate road into PEAK

Resort. Cyclists travelling from the north (Unstone) along the riverside greenway can join the private road into the Resort either by using the Pegasus Crossing which gives access onto the road-side footpath; or by joining the carriageway. Guests and staff arriving by bicycle or foot will have to check in to prevent inappropriate access and this will likely be done via a security card or code system. The applicant confirms that by their very nature cars/coaches/public transport will have to use the carriageway whereas cyclists and pedestrians would otherwise be able to roam anywhere.

- 5.5.8 The Cycle Campaign suggest that it would be more appropriate to run the pedestrian/cycle route along the east side of the road to avoid the crossing of the junction spurs which link from the lower access road into the development. Whilst in the proposed scheme there will be a need for pedestrians and cyclists to cross these points along the west side of the road this is considered to be the most appropriate option. The east side of the road is to accommodate a natural landscaped swale into which water running from the road will be channelled. Furthermore, there would still be a need for a crossing of the lower access road from the east to the west to get to the David Lloyd development plot.
- 5.5.9 In summary policy CS20 requires that proposals should seek to maximise walking, cycling and use of public transport and that priority will be given to sustainable travel choices. In this context the agreed David Lloyd development secures the provision of an appropriate level of parking spaces including electric vehicle charging points. The permissions granted also include for the significant improvements which have already been delivered for pedestrian and cycle access to and around the site. Furthermore the overall permissions for the wider development of the site allow for innovative measures to reduce car reliance by utilising green travel measures, shuttle bus opportunities and investment in none car access. The proposal is for a road linking the existing major infrastructure provision in the new roundabout and access spur through to the David Lloyd development plot and which is designed to s38 specification. Whilst concerns have been raised it is considered that the scheme is appropriately detailed and any

impacts would not be severe and have a detrimental impact on highway safety.

5.6 **Ecology**

- 5.6.1 The overall site is undergoing a re-naturalisation process following reclamation from open casting and closure of the former golf course. The consented development areas forming a series of platforms were cleared during the approved enabling works in 2015. Outside of these areas, the site is set aside for nature and is managed by grazing and which has resulted in the development of a habitat patchwork including mixed woodland, grassland and river corridor. Policy CS9 (Green Infrastructure and Bio-diversity) recognises Chesterfields green infrastructure at all levels of the planning process and the aim of protecting and enhancing the network.
- 5.6.2 There is already a requirement to undertake ecological survey as part of the development of the site and the reserved matters already agreed. Full Ecological Surveys were undertaken in 2008 by Ecology Solutions and which provided a baseline data for the site. Additional reports addressing specific parts of the site have been submitted in recent years for approval during discharge of various pre-commencement conditions and prior to the works commencing in the respective parts of the site. This has included addendum surveys in 2014 concerning Nesting Birds, Water Voles, Invertebrates, Badgers, Ornithology, Reptiles, Trees and which were supported by a Construction Method Statement. An Extended Phase One Habitat Survey, Tree Survey Report and Habitat Creation report were also prepared in 2014. A Willow Tit Survey was undertaken in 2015 to address a particular component area of the site, a Specific Arboricultural Method Statement in 2016, and Ecological Clerk of Works Reports were provided in September 2016 and December 2016. Further confidential survey and reports have been prepared more recently regarding Badgers involving Natural England in connection with the roundabout and access spur construction.
- 5.6.3 It is accepted that the site accommodates a real variety of wildlife and habitat interest and its significance has been reflected in the

conditions which have been imposed on the planning permissions which have been granted for the scheme. It is accepted that wildlife comes and goes and there is always a need to ensure that surveys where required are undertaken and a professional approach to safeguarding wildlife is provided so that development can proceed without having significant adverse impact on species or habitat.

5.6.4 In this case the areas of the site affected by the current proposal fall within the area already consented for development and which connects the highway to the consented David Lloyd reserved matters scheme and where the land was stripped as part of the agreed implementation works. This is shown in the photographs at 4.3. The main issue in ecology terms relates to the area of the site affected by the current road proposal and which is likely to have lower ecological value since the implementation works were carried out in 2015.

5.6.5 In response to the DLAW scheme and permission (CHE/19/00394/REM), which included a conditional requirement to undertake further ecological assessment of the site prior to the development, the applicant submitted two documents as part of the response to condition 1 (CHE/20/00094/DOC):

- Preliminary Ecological Appraisal (Updated Phase 1 Habitat Survey) January 2020 (PEA) by ECUS Ltd
- Ecology Method Statement

These documents covered both the areas affected by the DLAW plot and the lower access road route.

Preliminary Ecological Assessment (PEA)

The PEA undertaken in January 2020 has reviewed the numerous ecology documents which have been produced regarding the wider scheme. At the time of the survey, the site comprised of bare ground, semi-improved neutral grassland, tall ruderal, pockets of dense and scattered scrub and an earth bund. Invasive species Himalayan balsam *Impatiens glandulifera* was also noted in the vicinity of the access track. The PEA refers to the fact that there are no statutory designated sites present on site or within 2 km of the site. The PEA confirms that no impacts from the proposed

development on local designations identified within 2 km of the Site are anticipated however, given the proximity to Brierley & Roughpiece Woods LWS, including the River Drone and river corridor general safeguards and precautionary measures will apply during construction including the establishment of buffer zones and the use of fencing. As covered by previous reports for the wider scheme; the adjoining woodland to the east which includes Brierley and Roughpiece Wood LWS and the River Drone corridor will be protected through the redevelopment as follows:

- An Ecological Clerk of Works (ECoW) will be appointed for the works;
- The LWS will be fenced-off (i.e. steel-mesh fence) and marked with high visibility tape during construction to prevent encroachment by construction machinery and personnel. No construction machinery or materials will be stored within these areas at any point during the development;
- Following implementation of consented Public Right of Way Diversion Order in 2017, the River Drone is now protected by a 3.6 m wide adopted public greenway, constructed on the existing flood protection bund. The river corridor is further separated from the site by 30- 130 m of established woodland and by existing deer fencing. No encroachment into the river corridor will take place during construction works. Biosecurity measures and LWS fencing will ensure the river corridor is further protected and a toolbox talk will be provided to all site personnel in respect of the riparian environment; and,
- The landscaping scheme will include the establishment of a 10 m “woodland buffer zone” along the eastern boundary of the Site. This will include the 6 m swale. The buffer will help to offset the development from the adjoining woodland including the LWS. The PEA recommends that the 10 m buffer be enhanced with native species planting and managed to create a diverse green corridor of scrub, trees and species rich grassland. In the context of relevant wildlife legislation, appropriate mitigation, compensation and avoidance measures are provided to help to achieve an overall net gain in biodiversity as a result of the proposals, in line with the National Planning Policy Framework (NPPF, 2019) and the Chesterfield Borough Local Plan. The report

includes recommendations for the protection/enhancement/creation of habitats together with the provision of key species-specific enhancements.

Ecology Method Statement

The PEA makes a number of recommendations to ensure best practice on site and to mitigate impacts, with the aim of achieving a net biodiversity gain as a result of the development and which falls into the following categories:

- a. Before commencement of works
- b. Commencement & during works
- c. Design & Landscaping
- d. On-going management & maintenance

The following existing Method Statements and reports have previously been submitted to the Planning Authority:

- Peak Resort Nesting Bird Method Statement (2014)
- Peak Resort Water Vole Method Statement (2014)
- Peak Resort Invertebrate Method Statement (2014)
- Peak Resort Badger Method Statement (2014)
CONFIDENTIAL
- Peak Resort Habitat Creation, Enhancement and Management Plan (2014)
- Peak Resort Ornithological Assessment (2014)
- Peak Resort Reptile Method Statement (2014)
- Peak Resort Construction Method Statement (2014)
- Peak Resort Updated Extended Phase One Habitat Survey (2014)
- Tree Survey Report (2014)
- Willow Tit Survey (2015)
- Specific Arboricultural Method Statement (2016)
- Ecological Clerk of Works Report September (2016)

- Ecological Clerk of Works Report December (2016)
- Natural England Licence Report of Action - Badger Sett Closure (2017-2019)
- Ecological Clerk of Works Report Regarding Badger Sett Closure (2019)

The proposed method statement for the works on the lower access road include the undertaking of works under the supervision of a competent qualified Ecological Clerk of Works. The ECoW will undertake walkover surveys prior to any clearance works on site and will deliver toolbox talks with contractors to communicate the method statements.

Before any works commence on site the ECoW will be appointed and will have undertaken the necessary walkover surveys. Exclusion zones will have been established together with the buffer zones to trees and the woodland and river corridors. On commencement of works the ECoW will undertake the toolbox talks and ensure adherence to the method statement. Trenching and excavations will be covered / ramped and inspected daily and procedures will be followed in so far as storage of foods, waste, chemicals etc. Lighting will be minimised where possible.

5.6.6 Derbyshire Wildlife Trust responded as the Biodiversity Planning Officer responsible for work relating to the Service Level Agreement, which the Chesterfield Borough Council and the Trust have signed. The DWT confirm that their comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development. They have reviewed the two submitted reports. They comment that the PEA provides an update to the current ecological conditions on the ground and how these relate to earlier assessments and the proposed mitigation and method statements. DWT consider the scope and detail of the submissions to be acceptable. DWT consider that the PEA and the mitigation measures set out within it provides an acceptable basis upon which to address the ecological issues at this time and as such DWT have no objections to the submissions. DWT comment that during the period of vegetation clearance on the site, the Ecological Clerk of Works attention is

drawn to the possible presence of brown hare within the site on the basis that they have been seen foraging within the area.

- 5.6.7 It is necessary to ensure that the ecology of the site is safeguarded and that advice is provided by a competent specialist to identify appropriate mitigation measures. The site has been the subject of numerous such surveys over the years and which have informed progress with the scheme and works were undertaken on site in line with the recommendations which have been made. Such reports and recommendations informed the latest enabling works undertaken. The site the subject of the lower access road proposal had been prepared in 2016 by stripping and clearing the land and by using the route as an access across the site however over the course of the subsequent 3 to 4 years the land had commenced re-naturalisation and further survey was deemed necessary to safeguard any species which had returned. Such survey work has been undertaken by ECUS Ltd, an appropriate and competent ecological contractor. ECUS Ltd are an expert in this field of work and the Council, like all other local authorities in Derbyshire, has a service level agreement with Derbyshire Wildlife Trust (DWT) to advise the Council and provide specialist and expert advice on such matters and upon which the Council can rely. Their response to what has been provided and proposed in this case is therefore of significance and of considerable weight in determining the outcome of the matter. The issue concerning possible brown hare presence is a matter which can be drawn to the developers attention through a note.
- 5.6.8 The applicant has confirmed that an appropriate Ecological Consultant has now been appointed to undertake the Ecological Clerk of Works role.
- 5.6.9 In biodiversity terms it is appropriate to consider achievement of a net gain in line with NPPF and the local plan policy CS9. In this respect the scheme is designed to accommodate a landscaping scheme based on native species which maximise flowering and fruiting plants to benefit invertebrates, birds, bats and small mammals. New native species rich scrub and hedgerow planting is proposed to compensate for the loss of scrub habitat and areas of grassland are to be retained and created to create wider diversity.

The areas will be subject to long term management regimes to enhance their value for wildlife. The site will accommodate habitat features for key species groups including 10 x bird nesting boxes; 10 x bat boxes; 3 x log piles; 2 x hibernaculum, deadwood habitats; connected corridors, removal of invasive weeds and an Ecological Management Plan. It is known that Himalayan Balsam is present within the vicinity of the lower access road and which is covered under Sch 9, part II of the Wildlife and Countryside Act 1981. The applicant intends that this species be removed under a management plan following a detailed survey of the site in the optimum period for botanical survey to map the exact location.

- 5.6.10 It is considered that the proposals are supported by appropriate information and which are acceptable satisfying policy CS9 however a condition is required to ensure that the scheme progresses on the basis of the mitigation measures identified in the Ecological Method Statement.

5.7 **Drainage**

- 5.7.1 The existing permissions already include conditions concerning the drainage strategy for the site and how surface water is to be managed. This comprises a site wide SUDs solution which is still to be detailed by discharge of the outstanding planning conditions. This will all need to have been agreed prior to the lower access road development commencing and which would then need to be implemented to ensure appropriate drainage is achieved for the roadway. Incorporation of a linear swale linked to an attenuation pond at a lower level is a part of the overall strategy to assist in slower surface water run off and which has beneficial drainage management implications however further detail will be required to ensure the run off rates are restricted to greenfield rates plus 40% for climate change.

- 5.7.2 Yorkshire Water, The Environment Agency, the Lead Local Flood Authority and the Councils own Drainage Engineer have raised no specific objections concerning the proposals.

5.8 **Land Stability**

- 5.8.1 The existing permissions covering the site already include conditions concerning the necessity to ensure the stability of the site is safeguarded and the site is appropriately remediated from any contamination which may exist. The site was the subject of full site surveys by LBH Wembley in 2014 and which covered the lower part of the Peak site which was a former landfill site from the 1970s. The site was backfilled under a DCC licence (LC10) with inert and non hazardous industrial waste and LBH Wembley undertook necessary borehole and test pit investigations as part of the phase 1 reserved matters scheme and which did not identify a particular barrier to the redevelopment of this part of the site.
- 5.8.2 It is necessary for the development to properly take account of the ground conditions and any issues arising and the Councils Environmental Health Officer and the Coal Authority would be involved in such a process which needs to be followed in a thorough and appropriate manner. The new lower access road includes an opportunity to appropriately mitigate, seal and cap the historic landfill which exists beneath and thereby, through an appropriate sustainable drainage system, reduce surface water run off across the landfill area protecting the adjacent wooded river corridor from pollutants leaching into ground water.
- 5.8.3 It is accepted that there is the potential for methane and or/ other gases to be present on site in/around where the “tip” was. The licences or permits to deposit waste in the 1970's would have been regulated by Derbyshire County Council. The Councils Environmental Health Officer has considered the applications and raises no objection to the prospect of the development of this site having regard to this issue.
- 5.8.4 The Coal Authority (CA) initially raised concerns on the basis of an absence of information however the submission of additional information has led the Coal Authority to confirm that they withdraw their objection. The CAs concerns relate to the prospect of the position of possible unrecorded mine entries on the site which may be within an influencing distance of the proposed road and that appropriate remedial measures should be carried out to ensure safety and stability of the road.

- 5.8.5 On this basis the CA recommend a condition should be imposed specifically related to these risks and requiring a specific remediation strategy which sets out the following:
- details of the findings of the review of the positional accuracy for the mine entries,
 - information, including a plan to demonstrate how their best plot positions relate to the access road,
 - the findings of intrusive site investigations to locate those mine entries noted as being present on, or close to, the access road,
 - details of remedial works and/or mitigation measures to treat the mine entries and take account of any risks posed by the zones of influence from off site mine entries in the construction of the access road.
 - implementation of any necessary remedial works and/or mitigation measures,
 - Submission of a verification report to confirm the works carried out on site.

5.8.6 Any permission issued can included an appropriately worded condition.

5.9 **Designing out Crime**

5.9.1 The proposals for the Peak site is for a gated environment where guests and visitor access is monitored at the entrance point and throughout the car park, which are the only areas of the site to have vehicular public access. The applicant has confirmed that the access road will be controlled at the entry point with security card or access code/intercom however detail of this arrangement will be required by condition.

5.9.2 The facility will be managed by on-site staff covering aspects of guest service as well as maintenance and security. An appropriate level of management and maintenance will be ensured throughout the site as part of the operation of the resort and contribute, together with the security features to achieve a highly safe and secure environment for the enjoyment of guests and visitors, and for the benefit of the wider community in the neighbouring area. The site now has a secure boundary fence around the site which

controls access via barrier/gate control and access to the new lower access road will be a part of this.

5.9.3 Derbyshire Constabulary has considered the applications and has confirmed that they have no objections to the access road proposals.

6.0 **REPRESENTATIONS**

6.1 Site notices were posted on 7th February 2020, and letters were posted to all boundary sharing neighbours on 6th February, 2020.

6.2 Representation against the proposals from 4 different individuals has been received. Comment has also been received from Unstone Parish Council. The points which have been made are all summarised below.

6.3 Unstone Parish Council

6.3.1 Unstone Parish Council confirmed that they would be considering the proposal at their meeting on 20th February 2020. On 21st February the Parish Council requested when the application would be determined. The Parish Council were informed that the next committee was 30th March and any comments received before the application was determined would be taken into consideration.

Comments - No further comments have been received from the Parish Council.

6.4 Mr J Allsop

6.4.1 9 No e-mails have been received making the following comments:

- Question why the consultation had been sent to owner occupier at his home address when his name is known. Such an approach is unprofessional. I do object and will be making further comments in due course.

Comments – The Councils consultation system is not that refined. Whilst the planning service is aware of Mr

Allsops title and name, the system used for consultation on planning application does not. It uses UPRNs and occupants, which can frequently change, are not listed. For neighbours, letters are posted to home addresses however in this case where Mr Allsop owns land but does not live adjacent to the site it was considered important that a consultation on the application was provided.

- Questions were asked regarding the distance the new road will be from the bridle way.

Comments – The information requested was provided to Mr Allsop.

- Not only is this another development and more concrete and tarmac in the green belt, that you state you are keen to protect as a Council, it is in my opinion a danger and conflict. The road is to run over the bridle way. In the event of high visitor numbers, which if you believe the hype, it will be possible for queues of traffic to reach back to the main road and cause on the new roundabout and even the roundabout. If approved the road will create an interface and issues between users of the right of way and traffic. The application is ill conceived and common sense should prevail and the application be rejected.

Comment – It was always envisaged that the access into the site would cross the route of the statutory public thoroughfare around the site. This at a point which has already been provided as part of the roundabout and adopted highway spur and is mitigated by the introduction of a Pegasus crossing. There is no public thoroughfare crossing the element of the road which is the subject of this current application. The issue of possible queueing is not significant and has not generated a concern from the highway authority. The road is at least 500m in length before it reaches the David Lloyd car park area and which provides more than adequate space for any queueing which may arise.

- If this application is approved please be advised it is my intention to “call this in” to have a proper review conducted. Please could you confirm that you understand and accept this and that no approval should actually be formally granted until we have had this opportunity.

Comment – There is a requirement for some major applications to be first referred to the SoS for consideration of a call in power before the local planning authority make the final decision. This involved the establishment of the National Planning Casework Unit as part of DCLG. The Secretary of State will normally only do this if the application conflicts with national policy in important ways, or is nationally significant. The Secretary of State has to take published government policy into account when deciding whether or not to call in a planning application, and when making the decision. The objector has indicated that he intends to ask the NPCU to intervene in this case and decide whether the application should be the subject of a public inquiry.

Whereas it is considered the proposal does not fall into the category of such call in applications, this report has been forwarded to the NPCU for their consideration and response.

- I am sure you are well aware of the survey calendar.

Comment –The issues are dealt with under paragraph 5.6 of the report.

- I further object to the application on the grounds of a lack of clear drainage / rainfall management plans or drawing. As previously stated in previous applications the site is on a large slope and this application would create more and faster run off maybe even onto the road.

Comment – The majority of the Country were suffering from severe floods due to the excessive rainfall. The

issue is dealt with at paragraph 5.7.1 and the introduction of SUDs features including the swale and a retention pond will result in water which would otherwise run down the slopes into the river, as existing, being held back and thereby reducing the prospect of any flooding.

- Interestingly having just passed the planned entrance signs warning of floods are in place. This will be exaggerated if this project is allowed.

Comment – The majority of the Country were suffering from severe floods due to the excessive rainfall. The issue is dealt with at paragraph 5.7.1 and the introduction of SUDs features including the swale and a retention pond will result in water which would otherwise run down the slopes into the river, as existing, being held back and thereby reducing the prospect of any flooding.

- I read with interest the objection from The Coal Authority. Once again it appears this project simply bypasses accepted and necessary procedure. I further object on the grounds on insufficient coal mining legacy investigation.

Comment – The issue is dealt with at paragraph 5.8.4 – 5.8.6. The Coal Authority has removed its objection based on additional information provided.

6.5 Mrs Allsop

6.5.1 Objects on the basis that the new roundabout and road layout is busy, the roundabout is too small, with too many exits already and the new exit will cause further disruption. The proposed road into the Resort passes over the existing bridle track. The Peak resort itself and the application of the road will be adding to the flooding potential. I also strongly object to the application for the Ecological Survey to be discharged CHE/17/00093/DOC. Why? I thought that we and the council are supposed to be looking after the planet, not dismissing it.

Comment – The current application is not about the roundabout and how it performs since it has previously been agreed, constructed and implemented with SCRIF grant assistance. The application concerns solely the extension of the existing spur off the roundabout for 500 metres to the David Lloyd plot.

It was always envisaged that the access into the site would cross the route of the statutory public thoroughfare around the site. This at a point which has already been provided as part of the roundabout and adopted highway spur and is mitigated by the introduction of a Pegasus crossing. There is no public thoroughfare crossing the element of the road which is the subject of this current application.

Flooding issues are dealt with under paragraph 5.7 and ecology issues at 5.6

6.6 Mr Wilson

6.6.1 Objects on the grounds that safe access for horse riders wishing to access the bridle way at its former junction with Sheffield Road has not been provided. Previously pointed out that the Highway Code advises riders not to attempt to negotiate roundabouts, the government's inspector also commented on this in her report. Despite this no design changes have been made to provide safe access. To proceed without doing so would be dangerous and irresponsible.

Comment – This comment does not relate to the proposal the subject of the current application. The roundabout and how this relates to access to the bridleway network around the site has previously been considered. It was always envisaged that the access into the site would cross the route of the statutory public thoroughfare around the site. This at a point which has already been provided as part of the roundabout and adopted highway spur and is mitigated by the introduction of a Pegasus crossing. There is no public thoroughfare crossing the element of the road which is the subject of this current application.

6.7 Mr R Smith

6.7.1 Criticises the Council for posting hard copies of letters concerning planning notices. Mr Smith refers to a recent innovation which seems to work is....the internet....and that maybe the Council could try this method. This would make it so much easier for overworked parish clerks, and for we councillors.

Comments – Mr Smith was consulted as a neighbour rather than as a Parish Councillor. The Councils consultation system for neighbours uses address points through UPRNs and occupants and their e mail addresses, which can frequently change, are not listed. It is the case therefore that for neighbours, letters are posted to owner/occupiers. The issue raised about Mr Smiths Parish Council workload is a separate matter. Unstone Parish Council were separately consulted on the application.

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.

7.3 The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application. The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary. The methods used are no more than are necessary and required

to accomplish the legitimate objective of determining an application.

- 7.4 The interference caused by a refusal, approval or approval with conditions, based solely on planning merits, impairs as little as possible with the qualified rights or freedoms of the applicant, an objector or consideration of the wider Public Interest. The applicant has a right of appeal against any conditions imposed on any permission which may be issued.

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

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

- 8.2 The Local Planning Authority offers a free pre-application advice service which, in this instance, was utilised by the applicant. Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

- 8.3 The applicant/agent and any objectors will be provided with a copy of the officer report informing them of the application considerations and recommendation/conclusion.

9.0 **CONCLUSION**

- 9.1 The development of the new lower access road is a priority for the Council and which has the benefit of permission in outline and detail for phase one. The proposal links the adopted highway created to serve the overall development with the consented first

phase David Lloyd Adrenaline World and which reflects the overall aspirations for the development of the wider scheme and which has been considered in so far as the impacts on the local area.

- 9.2 The scheme appropriately addresses issues relating to its design, ecology, land condition and highway safety and is considered to be acceptable. Impacts are to be mitigated and conditions as part of any permission granted can ensure that such mitigating measures are implemented. The scheme remains in accord with the principles of the development already agreed on the site and which are acceptable from a residential amenity, highways safety and design and appearance basis. The proposals accord with the requirements of Policies CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS9 (Green Infrastructure and Biodiversity), CS13 (Economic Growth), CS18 (Design) and CS20 (Demand for Travel) of the 2013 Local Plan: Core Strategy.

10.0 **RECOMMENDATIONS**

- 10.1 Approve subject to the conditions of the outline planning permission CHE/0389/0210 and CHE/0301/0164 as varied by CHE/14/00086/REM1; CHE/14/00088/REM1; CHE/16/00219/NMA and CHE/16/00317/REM1 and subject to the following additional conditions:

01. The mitigation measures identified in the Preliminary Ecological Assessment and Ecology Method Statements by ECUS Ltd shall be fully implemented as part of the development hereby agreed.

Reason:

In the interests of safeguarding any ecological interests which may exist on the site in accordance with policy CS9 and the wider requirements of the NPPF.

02. No development shall commence until a detailed remediation strategy to protect the road hereby agreed from the effects of land instability due to coal mining legacy has been submitted to the Local Planning Authority for consideration and approval in writing. The remediation strategy shall set out the following:

- details of the findings of the review of the positional accuracy for the mine entries,
- information, including a plan to demonstrate how their best plot positions relate to the access road,
- the findings of intrusive site investigations to locate those mine entries noted as being present on, or close to, the access road,
- details of remedial works and/or mitigation measures to treat the mine entries and take account of any risks posed by the zones of influence from off site mine entries in the construction of the access road.
- implementation of any necessary remedial works and/or mitigation measures,
- Submission of a verification report to confirm the works carried out on site.

Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.

- 03 Full details of security measures to be installed at the south end of the lower access road shall be submitted to the local planning authority for consideration. This shall include details of any gates or barriers, their position, advance signage, how access to the wider site is to be managed and any other security measures. The agreed details shall be implemented as part of the development and shall be installed concurrent with the opening of the new road to the public.

*Reason:
In the interests of ensuring a secure and safe facility.*

04. Within 2 months of commencement of the development details of a full soft landscaping scheme for the development hereby approved shall be submitted to the Local Planning Authority for consideration. The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment);

schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall be carried out in accordance with the implementation programme

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

05. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

06. Full details of the lighting scheme for the lower access road including design and hours of operation shall be submitted to the local planning authority for consideration. The details agreed in writing shall be implemented as part of the development and shall be retained thereafter.

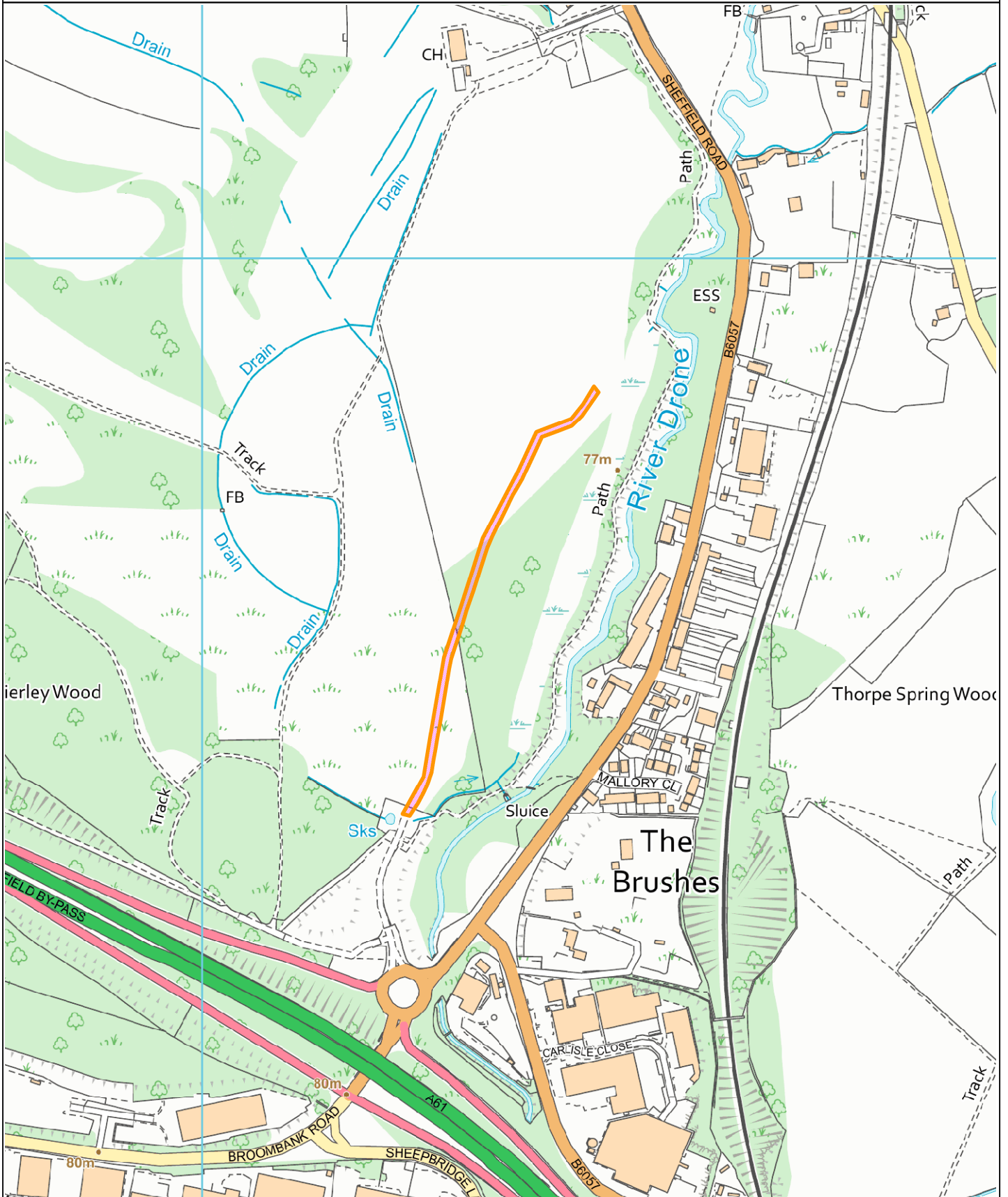
*Reason:
In the interests of the amenity of the area in accordance with policy CS2 and CS18*

Notes:

- 1 During the period of vegetation clearance on the site, the Ecological Clerk of Works attention is drawn to the possible presence of brown hare within the site on the basis that they have been seen foraging within the area.

2. The applicants attention is drawn to the under Schedule 9, part II of the Wildlife and Countryside Act 1981 in so far as the presence of Himalayan Balsam within the vicinity of the lower access road.
3. 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.

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CHESTERFIELD
BOROUGH COUNCIL

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