



Please ask for Rachel Appleyard
Direct Line: 01246 345277
Email: democratic.services@chesterfield.gov.uk

The Chair and Members of Planning Committee

Councillor K Falconer – Site Visit 1
Councillors Brittain and Serjeant – Site Visit 2
Councillors Perry and Wheeldon – Site Visit 3
Councillors J Innes and P Innes – Site Visit 4
Councillor Rogers – Site Visit 5
Councillors Fordham and Hollingworth – Site Visit 6

19 August 2022

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on TUESDAY, 30 AUGUST 2022 at 1.00 pm in Committee Room 1, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

PLEASE NOTE THAT THE MEETING WILL BE PRECEDED BY THE FOLLOWING SITE VISITS.

Planning Committee Members should assemble in Committee Room 1 at 10:10am. Ward members wishing to be present should attend on site as indicated below:-

1. 10:20 33 Boythorpe Avenue CHE/21/00171/FUL
2. 10:35 Land adjacent to 16 Eyre Street East

CHE/22/00220/REM

3. 11:00 Land at Enterprise Way CHE/22/00272/FUL
4. 11:20 Land off Station Road CHE/20/00496/FUL
5. 11:50 Avenue Villa, 12a Avenue Road
CHE/21/00926/FUL & CHE/22/00034/OUT
6. 12:15 3 Cobden Road CHE/21/00727/FUL

Members are reminded that only those attending on site will be eligible to take part in the debate and make a decision on these items. Members intending to declare a Disclosable Pecuniary Interest, or any other matter which would prevent them taking part in discussions on an item, should not attend the site visit for it.

Ward members are invited to attend on site and should confirm their attendance by contacting Democratic Services via e-mail: Democratic.Services@Chesterfield.gov.uk by 9.00 a.m. on Monday 30 August, 2022. If you do not confirm your attendance, it will be assumed that you will not be attending on site.

Please ensure that all mobile phones are switched off during site visits and at the meeting at the Town Hall.

1. Apologies for Absence
2. Declarations of Members' and Officers' Interests Relating to Items on the Agenda
3. Minutes of Planning Committee (Pages 5 - 22)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 23 - 272)
5. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 273 - 290)
6. Applications to Fell or Prune Trees (P620D) (Pages 291 - 296)

7. Appeals Report (P000) (Pages 297 - 322)
8. Enforcement Report (P410) (Pages 323 - 326)
9. Local Government Act 1972 - Exclusion of Public

To move "That under Section 100(A)(4) of the Local Government Act, 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 6a of Part I of Schedule 12A of the Act."

Part 2 (Non Public Information)

10. Unauthorised Development at 76-88 Old Hall Road, Chesterfield, Derbyshire S40 1HF (Pages 327 - 330)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'R. Smith', written in a cursive style.

Head of Regulatory Law and Monitoring Officer

This page is intentionally left blank

PLANNING COMMITTEE**Friday, 22nd July, 2022**

Present:-

Councillor Simmons (Chair)

Councillors Barr
BinghamCouncillors Borrell
Caulfield

*Matters dealt with under the Delegation Scheme

38 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Brady and Catt.

**39 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS
RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

**40 APPLICATIONS FOR PLANNING PERMISSION - PLANS
DETERMINED BY THE COMMITTEE**

Further to the deferral of this matter on 6 June, 2022 for more information, the Committee considered further the under-mentioned application in light of reports by the Development Management and Conservation Manager and resolved as follows:-

CHE/21/00707/FUL – ERECTION OF 301 DWELLINGS INCLUDING THE PROVISION OF PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE AND WORKS (AMENDED PLANS RECEIVED 19/04/22) ON LAND TO THE EAST OF LINACRE ROAD, HOLME HALL, CHESTERFIELD FOR TILIA HOMES LTD.

***RESOLVED –**

That the officer recommendation be upheld and the application be approved subject to securing the following via a legal agreement:

- NHS (CCG) contribution - £144,576 for GP practices
- Link from the site to Wardgate Way - £70,000 to CBC
- Affordable housing as submitted at 18% provision across the site providing 55 units altogether with a 50/50 split on tenure (shared ownership and rent)
- Travel plan monitoring fee - £15,680
- Travel plan bond - £35,000
- Travel plan fee - £1,750
- Contribution towards Real Time Information at bus stops - £24,400
- Biodiversity net gain of 18 habitat units at £20,000 per unit to CBC = £360,000

And subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
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 or specific condition set out below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Site location plan 100-047/015 received 22.09.2021

Site layout 100-047/002 AG received 07.07.2022

House types:

Alderley 100-47/134 D received 19.04.2022

Alfriston 100-47/110 D received 19.04.2022

Arlington 100-47/112 F received 19.04.2022

Ashleworth 100-47/143 C received 19.04.2022

Blakeney 100-47/116 C received 19.04.2022

Buckland 100-47/117 D received 19.04.2022

Chiddingstone 100-47/119 B received 19.04.2022

Cliveden 100-47/121 B received 19.04.2022

Derwent V1 100-47/144 C received 19.04.2022

Derwent V2 100-47/123 D received 19.04.2022

Dunstable 100-47/129 B received 19.04.2022
Holmewood M4(2)100-47/100 B received 19.04.2022
Melford 100-47/130 F received 19.04.2022
Morden 100-47/102 C received 19.04.2022
Moulton 100-47/133 D received 19.04.2022
Sudbury 100-47/125 D received 19.04.2022
Willington 100-047/127 D received 19.04.2022
2B4P M4(2) 100-47/107 C received 19.04.2022
3B5P M4(2) 100-47/104 C received 19.04.2022
2B3P M4(2) Bungalow 100-47/106 C received 19.04.2022
AFF 402 A 100-47/109 C received 19.04.2022
3B4P (M4(3)) Bungalow 100-47/141 D received 19.04.2022

Street scenes 100-047/017 K received 26.04.2022
Biodiversity net gain report received 20.04.2022

3. Prior to works commencing above slab level on the first dwelling a detailed scheme of highway improvement works for the relocation and upgrade of the existing bus stops along Linacre Road in line with the comments of the Highway Authority in their letter of the 11th May 2022 and provision of tactile pedestrian crossing points and verge crossing points along Linacre Road together with a programme for the implementation and completion of the works in line with the phasing to be agreed under condition 4, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the required highway improvement works have been constructed in accordance with the approved details.

4. No development, including preparatory works, shall commence until a development program has been submitted to the Local Planning Authority for written approval. The program shall identify any phasing arrangements, together with construction and implementation timescales of how the development will progress.

5. Notwithstanding the submitted information prior to first occupation of any of plots 144 to 157, details of roadside boundary treatments / screen planting in the vicinity of plots 144 & 153 to 157 have been submitted to

and approved in writing by the Local Planning Authority. The proposals shall demonstrate how opposing vehicle headlights will be shielded from view, which may otherwise distract existing highway users on Linacre Road. The approved details being in place prior to occupation of those plots and maintained thereafter.

6. No development shall commence until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:

- a. detailed designs of a temporary access for construction purpose; including appropriate visibility sightlines and measures for warning other highway users of construction traffic entering or emerging from the site access. The access shall be installed prior to any other construction works and shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use.
- b. parking for vehicles of site personnel, operatives and visitors
- c. site accommodation
- d. storage of plant and materials
- e. routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control
- f. provision of roadside boundary hoarding behind any visibility zones
- g. any proposed temporary traffic management.
- h. details of wheel washing facilities for construction traffic

Works on site shall be completed in accordance with the agreed details.

7. In line with the phasing to be agreed under condition 4, new permanent vehicular access junctions shall be formed to Linacre Road and provided with visibility sightlines extending from a point 2.4 metres back from the carriageway edge, measured along the centreline of the access, 43 metres in each direction, measured to the nearside carriageway edge (or tangential where on a bend) with there being no obstruction between the sightline and the adjacent carriageway edge exceeding 1 metre in height above the carriageway channel level. The area in advance of the visibility sightlines shall be laid out as part of the street and shall not form part of

any plot or other sub-division of the site, and shall remain as such thereafter. The access shall be laid out and fully completed in accordance with the approved details prior to any dwelling, taking access from the junction, being occupied.

8. Before works to create any new estate streets take place, construction details of the residential estate street(s) and footway(s) (including layout, levels, gradients, surfacing, means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) and a construction program, in line with the phasing to be agreed under condition 4, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

9. The carriageway(s) of the proposed estate road(s) shall be constructed in accordance with Condition 8 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

10. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under Section 38 of the Highways Act (1980).

11. No part of the development hereby permitted shall be first occupied until a revised Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

12. All new estate street junctions shall be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, 25 metres in each direction measured to the nearside carriageway edge (or tangential where on a bend) with there being no obstruction between the sightline and the adjacent carriageway edge exceeding 1 metre in height above the carriageway channel level. The area in advance of the visibility sightlines shall be laid out as part of the street and not part of any plot or other subdivision of the site and shall remain as such thereafter.

13. No dwellings hereby approved shall be occupied until the estate streets intended to serve that dwelling have been provided with suitable turning arrangements to enable service and delivery vehicles to turn. In the case where interim turning arrangements are constructed these must remain available until any permanent estate street turning is available, in accordance with the approved estate street designs.

14. When the new permanent accesses hereby permitted are brought into use, any existing redundant vehicular access shall be permanently closed and the highway margin reinstated, in accordance with a scheme to be agreed with the Local Planning Authority prior to first closure of any access point, and no further points of access be created thereafter.

15. Prior to the first occupation of each dwelling, space (not including garages) shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be

maintained throughout the life of the development free of any impediment to its designated use.

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

17. Prior to development commencing, an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

18. Following completion of 50% of the dwellings and secondly at the stage of the final completion of the remaining 50% of the dwellings, a post construction Accessible Housing Certification Table containing the full details of the following matters shall be submitted to and approved in writing by the Local Planning Authority;

-Which and how many dwellings within the development have satisfied M4 (2)* accessible and adaptable dwellings standards

-Which and how many dwellings within the development have satisfied M4 (3)* wheelchair adaptable dwellings standards

-Which and how many dwellings within the development have satisfied M4 (3)* wheelchair accessible dwellings standard. (*contained within Part M Volume 1 (Approved Document) of The Building Regulations 2010, or any such Approved Document or Regulations for the time being in force, including any modification, extension or re-enactment of the same and including all instruments, orders, regulations and directions for the time being made, issued or given under the Approved Document or Regulations (or deriving validity from the same.))

The accessible dwellings shall be provided in accordance with the agreed details and shall be retained as provided for thereafter.

19. In line with the phasing to be agreed under condition 4, no development, other than the provision of access shall commence within each phase until;

a) any remediation works and/or mitigation measures to address the mine entries and the shallow coal mine workings, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

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

20. Prior to the occupation of any dwelling within the development , a signed statement or declaration prepared by a suitably competent person confirming that in line with the phasing to be agreed under condition 4, that part of the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by the recorded mine entry.

21. Prior to commencement, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority detailing the provisions to be made for the monitoring and control of:

a) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other

Monday to Friday: 08:00 – 18:00

Saturday: 08:00 – 13:00

Sundays and bank Holidays - No working

b) Noise and vibration: To demonstrate compliance with the guidance in British Standard BS5228 Noise and vibration control on construction and open sites; including the proposed measurement methodology, the location of monitoring locations and noise-sensitive premises, the maximum permitted facade noise levels. No piling, blasting, dynamic compaction or use of vibrating rollers shall occur without the written approval of the Local Planning Authority;

c) Dust/Particulate emissions: To include the prevention of dust/particulates being blown off-site. At such times as the prevention of dust/particulate nuisance by the agreed means is not possible, the

movement of vehicles, soils or dusty materials must temporarily cease until such time as weather conditions improve;

d) Waste: To include suitable and sufficient provisions for the collection, storage and disposal of waste materials. No unwanted materials shall be disposed of on site by burning without the prior written approval of the Local Planning Authority;

e) Lighting: To include a site plan showing the proposed types, locations and heights of the lamps, vertical illuminance levels (Lux) to the facades of agreed light-sensitive premises and operating times.

All works shall be fully implemented in accordance with the approved CEMP. The CEMP shall be reviewed at least at the start of each phase of the development or where there are changes to relevant legislation or where changes are made to the agreed CEMP.

22. a) Prior to work commencing on each part of the site in line with the phasing to be agreed under condition 4, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;

b) Prior to work commencing on each part of the site in line with the phasing to be agreed under condition 4, detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;

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

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

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

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

2. Prior to commencement of works on site (including site clearance, ground works and setting up site compounds), a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) A Badger Mitigation Strategy. This shall specify protection measures during and post-construction, along with habitat enhancement measures and maintenance of connectivity throughout the site and to Ashgate Plantation. The agreed Strategy shall be implemented in full.
 - b) Risk assessment of potentially damaging construction activities.
 - c) Identification of “biodiversity protection zones”, to include Ashgate Plantation, the north-eastern woodland, the stream and all retained trees/vegetation.
 - d) 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).
 - e) The location and timing of sensitive works to avoid harm to biodiversity features.
 - f) The times during construction when specialist ecologists need to be present on site to oversee works.
 - g) Responsible persons and lines of communication.
 - h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - i) 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.

24. Prior to first occupation, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats, badgers and other nocturnal wildlife. The woodland edge habitats, central corridor and known badger sett shall be protected from lightspill, as far as practicable. The Strategy should provide details of the chosen luminaires, their

locations and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan will be required to demonstrate acceptable levels of lightspill to sensitive ecological zones/features.. Such approved measures will be implemented in full.

25. Prior to building works commencing above foundation level, an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented in full prior to the occupation of each dwelling and shall be maintained and if necessary replaced in a manner suitable for their intended purpose in perpetuity . The plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:

- integrated bat boxes in 20% of dwellings.
- integrated swift/universal bricks in 50% of dwellings.
- external house martin cups and/or starling boxes on 20% of dwellings.
- insect bricks in 10% of dwellings.
- A scheme for providing gaps 130 mm x 130 mm in garden fencing to maintain whole site connectivity for hedgehogs.
- minimum of two hibernacula in association with SuDS features.

26. The archive from the archaeological work carried out during the previous investigation and enabling stage of the development shall be deposited with Chesterfield Museum within 28 days of first commencement on site, unless otherwise agreed for technical reasons, in accordance with the previously approved Written Scheme of Investigation (WSI) Land to the East of Linacre Road, Chesterfield, Derbyshire. Written Scheme of Investigation for Strip Map and Sample Excavation, ARS Ltd September 2018.

27. Notwithstanding the details on boundary treatment plan 100-047/013 D received 19.04.2022, prior to any boundary treatment being installed on site or first occupation whichever comes first, a revised plan shall be submitted to and approved in writing by the Local Planning Authority demonstrating clearly the locations of estate railings and post and rail fencing, a more robust boundary to the north of the site to separate the public and private spaces, details of a boundary treatment to the play

area if necessary, details of any retaining boundary structures (including sections where necessary), the setting back of screen walls to allow for natural surveillance from rear elevations and more clarity of the treatments of the private boundaries adjacent to the public open spaces. The approved details shall be installed on site prior to the occupation of each unit to which the treatment relates and prior to the last unit being occupied in terms of any open space boundary treatment.

28. Prior to first occupation details of entrances into the site including where possible the re-use of stone from within the central corridor to form dry stone wall features shall be submitted to and agreed in writing by the Local Planning Authority. The agreed works shall be installed on site prior to the occupation of the 150th unit.

29. Notwithstanding the submitted materials plan, prior to works commencing on any external faces of the dwellings hereby approved; details of all facing materials, including brick, render, heads and cills along with details of eaves, verges, windows, doors, (including garage doors) colours and finishes shall all be submitted to and agreed in writing by the Local Planning Authority. Work shall be completed in accordance with the agreed details.

30. Prior to being installed details of proposed play area/s including equipment and surfacing shall be submitted to and approved in writing by the Local Planning Authority in accordance with details of any tree protection or suitable mitigation measures agreed under condition 31. The play area shall be installed in accordance with the agreed details and be available for use prior to the occupation of the 150th unit, unless written justification is submitted and agreed to allow for installation at a later time through the construction process.

31. Prior to the commencement of the development hereby approved (including the grading/excavations of the land and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

Location and installation of services/ utilities/ drainage. These should be outside the designated construction exclusion zones unless non-intrusive techniques are used.

Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.

Details of construction within the RPA or that may impact on the retained trees.

A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.

Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.

A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.

A specification for scaffolding and ground protection within tree protection zones.

Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area (This should also include an exclusion zone for the designated 15m wildlife and buffer zone).

Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires.

Boundary treatments and play equipment/surfacing within the RPA.

Methodology and detailed assessment of root pruning.

Arboricultural supervision and inspections by a suitably qualified tree specialist throughout the development. Details shall include all proposed tree protection monitoring, reporting, inspections, and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) and shall be submitted to and approved in writing by the Local Planning Authority.

Methods to improve the rooting environment for retained and proposed trees and landscaping areas.

The development thereafter shall be implemented in strict accordance with the approved details.

32. Prior to the commencement of the development including land stripping, site preparation or construction activities, an onsite inspection by the Council's Tree Officer shall take place to inspect the installed and approved tree protection measures. The inspection shall include the measurement of the protective fencing from the Ashgate Plantation woodland edge and along the 15m wildlife corridor and other construction exclusion zones of the development site or each construction phases and approved in writing by the Local Planning Authority before any development activity commences.

33. Trees and vegetation within Groups 54, 58, 59 and 60 as shown on the Arboricultural Impact Assessment drawing 440.20.03 Rev E shall be retained in their entirety and protected throughout the development. There shall be no excavations, land level changes or construction activities within the designated construction exclusion zones as shown on the Tree Protection Plan (TPP) within the Tree Report & Arboricultural Impact Assessment (AIA) Rev D at Appendix B.

34. Prior to first occupation of any dwelling hereby approved; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner, unless otherwise agreed as a phasing programme. Details shall include:

- 1) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- 2) location, type and materials to be used for hard landscaping including specifications, where applicable for:
 - a) permeable paving
 - b) tree pit design

- c) underground modular systems
 - d) use within tree Root Protection Areas (RPAs);
 - 3) a schedule detailing sizes and numbers/densities of all proposed trees/plants, to include fruit trees to encourage foraging, all with the aim of enhancing biodiversity;
 - 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise,
- There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.
- j) details of all hard surfacing materials including vehicle, pedestrian and cycle routes and informal circulation areas;
 - k) details of all minor artefacts and structures (e.g. furniture, refuse, signs, lighting etc);

35. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The LEMP shall cover all retained and created habitats, as identified in the agreed Biodiversity Net Gain Feasibility Assessment report to meet the habitat gains set out in the Biodiversity metric calculation and landscaping of the site agreed under condition 33.

The content of the LEMP shall include the following;

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
- g) Details of the body or organization responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures,
- i) Details of the company to be set up to manage the any private highways areas and the landscaped areas of the site in perpetuity,

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 Years +) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

36. A scheme in line with the proposed street scene section detailing all proposed finished floor and land levels shall be submitted to and approved in writing by the Local Planning Authority prior to any importation of earth to site or excavation works commencing. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

37. Prior to any work commencing on site levels or on any drainage works, details of all contours and finished details of the attenuation ponds including any headwall or culverting details. Works shall be completed in accordance with the agreed details.

38. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. CHE/21/00707/FUL Flood Risk Assessment- 247164
 - b. CHE/21/00707/FUL South parcel drainage calculations - 261720
- have been submitted to and approved in writing by the Local Planning Authority.

39. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

40. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

41. The proposed attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and to the agreed specifications. An associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority.

42. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

43. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification)

a) no means of enclosure (other than those hereby permitted) shall be erected within the curtilage of any dwelling where it is in line with or forward of the principal elevation of that dwelling, and

b) no outbuildings shall be erected exceeding a size of 10 square metres where sited forward of the side elevation of plots 022, 026, 028, 032, 039, 040, 044, 046, 047, 049, 052, 053, 057, 058, 068, 083, 084, 098, 099,

106, 112, 130, 150, 152, 158, 166, 171, 182, 220, 228, 231, 234, 247, 261, 274, 275, 301; and

c) no extensions shall be erected within the curtilage of plot 83, without the prior written approval of the Local Planning Authority upon an application submitted to it.

44. The construction of the development shall take place in accordance with the submitted Sustainability Statement dated 25th March 2022 and received 20.06.2022.

45. Prior to the commencement of development further investigations and an associated report shall be submitted to and agreed in writing by the local planning authority requiring immediate pre commencement checks for bats and nesting birds to be carried out. Once agreed and any recommended mitigation measures confirmed then works may commence on site.

46. Prior to any tree removal taking place on site a scheme shall be submitted to and approved in writing by the Local Planning Authority to seek to reduce the speed of the carbon release. Works shall be completed in accordance with the agreed details.

Agenda Item 4

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 th August 2022
TITLE	DETERMINATION OF PLANNING APPLICATIONS
PUBLICITY	*For Publication
CONTENTS SUMMARY	See attached index
RECOMMENDATIONS	See attached reports
LIST OF BACKGROUND PAPERS	For each of the attached reports, the background papers consist of the file specified in the top right hand corner on the front page of the report. Those background papers on the file which do not disclose exempt or confidential information are open to public inspection at the office of the Development Management and Conservation Manager – Planning Services. Additional background papers (if any) will be separately listed in the report.

This page is intentionally left blank

**INDEX TO DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER'S REPORT ON THE 30th August 2022**

ITEM 1	CHE/22/00220/REM - APPROVAL OF RESERVED MATTERS (APPEARANCE, ACCESS AND LANDSCAPING) OF CHE/21/00286/OUT FOR DWELLING ON LAND ADJACENT TO 16 EYRE STREET EAST, HASLAND, CHESTERFIELD, S41 0PQ FOR BIX AND OSHIN DEVELOPMENT LTD.
ITEM 2	CHE/22/00203/COU - CHANGE OF USE OF STORE ROOM TO BEDROOM WITHIN HOUSE IN MULTIPLE OCCUPATION (DESCRIPTION AMENDED 12/04/22) AT 20 ALBION ROAD, CHESTERFIELD FOR DOVEDALE PROPERTY LETTINGS LTD.
ITEM 3	CHE/20/00496/FUL - DEMOLITION OF 7 BUILDINGS AND ERECTION OF 12 NEW UNITS (USE B2 / B8) WITH ANCILLARY OFFICES, ASSOCIATED CAR PARKING AND EXTERNAL VEHICULAR AREAS / LANDSCAPING (ADDITIONAL INFORMATION RECEIVED 28/10/2020, 05/11/2020, 21/01/2021, 12/03/2021, 06/07/2021, 29/09/2021, 04/10/2021, 05/07/2022, 06/07/2022) ON LAND OFF STATION ROAD, OLD WHITTINGTON, DERBYSHIRE, S41 9AW FOR W H BUTLER AND SONS (FOUNDERS) LTD.
ITEM 4	CHE/21/00926/FUL – ERECTION OF A NEW CARE HOME FACILITY WITH SEPARATE DETACHED DAY UNITS AND CREATION OF NEW ACCESS AND AUXILIARY CAR PARKING AREAS (REVISED PLANS RECEIVED 24/05/2022 AND 21/07/2022) AT AVENUE VILLA, 12A AVENUE ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8TA FOR DIGNUS HEALTHCARE
ITEM 5	CHE/22/00034/OUT - 3 STOREY RESIDENTIAL BLOCK WITH ASSOCIATED PARKING AND ACCESS (REVISED PLANS RECEIVED 24/05/2022 AND 20/06/2022) AT AVENUE VILLA, 12A AVENUE ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8TA FOR DIGNUS HEALTHCARE
ITEM 6	CHE/21/00727/FUL - CONVERSION OF FORMER HOTEL TO FORM 4 DWELLINGS (REVISED PLANS RECEIVED 26/06/2022) (DESCRIPTION OF DEVELOPMENT UPDATED 04/07/2022) AT 1 – 3 COBDEN ROAD, CHESTERFIELD,

	DERBYSHIRE, S40 4TD FOR MR P SOBTI.
ITEM 7	CHE/21/00171/FUL - ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS AT 33 BOYTHORPE AVENUE FOR MS CLAIRE HANCOCK
ITEM 8	CHE/22/00272/FUL - ERECTION OF ELECTRIC VEHICLE CHARGING STATION WITH ANCILLARY USES INCLUDING RETAIL AND FOOD AND DRINK WITH ASSOCIATED ELECTRICAL INFRASTRUCTURE, CAR PARKING AND LANDSCAPING ON LAND AT ENTERPRISE WAY, DUCKMANTON, CHESTERFIELD FOR GRIDSERVE SUSTAINABLE ENERGY LTD

ITEM 1**PROPOSAL: APPROVAL OF RESERVED MATTERS (APPEARANCE, ACCESS AND LANDSCAPING) OF CHE/21/00286/OUT FOR DWELLING ON LAND ADJACENT TO 16 EYRE STREET EAST, HASLAND, CHESTERFIELD, S41 0PQ FOR BIX AND OSHIN DEVELOPMENT LTD**

Local Plan: unallocated

Ward: Hasland

Committee Date: 30th August 2022**CONSULTATIONS**

Ward members	No representations received
Strategic planning	<u>Comments received 26/05/22:</u> No adverse comment received.
Environmental Health	<u>Comments received 25/04/22:</u> No adverse comments to make
Design Services	<u>Comments received 15/07/22:</u> The revised matters received are not drainage related; therefore, I would refer back to my original comments in the initial application, and in particular to the presence of the public sewer on the development site.
Yorkshire Water Services	<u>Comments received 22/04/22:</u> No observation comments to make on this reserved matters application. Proposed foul and surface water drainage proposals can be dealt with via a future discharge of conditions 7 and 8.
Local Highway Authority	<u>Comments received 10/05/22:</u> No objection subject to conditions – see report
CIL Officer	No representations received
Neighbours	3no. representations received from the same objector – see report.

2.0 THE SITE

2.1 The application site is located in the built-up area of Hasland off Storforth Lane. The site is largely hard-surfaced area with a row of flat roof garages to the rear of the site. There is a brick wall to the site frontage. The area around the site is predominantly terraced housing, there is a takeaway to the corner of Eyre Street and York Street. To the rear the site abuts the rear gardens of the dwellings fronting York Street.

3.0 SITE HISTORY

- 3.1 CHE/21/00286/OUT - Residential development (1 dwelling) - Outline with some matters reserved – Conditional permission granted 22/06/2021
- 3.2 CHE/18/00793/REM1 Removal of condition 9 (car parking spaces) of CHE/16/00721/OUT - Residential development of one detached house -Refused 10.01.2019
- 3.3 CHE/16/00721/OUT Residential development of one detached house, amended description and plan received 10th January 2017 – Conditional Permission 23.02.2017
- 3.4 CHE/07/00709/FUL Detached dormer bungalow – Refused 15.11.2007
- 3.5 CHE/07/00218/FUL 2 no. houses (semi-detached) – Refused 30.05.2007
- 3.6 CHE/21/00286/OUT - Residential development (1 dwelling) - Outline with some matters reserved – Conditional permission granted 22/06/2021

4.0 THE PROPOSAL

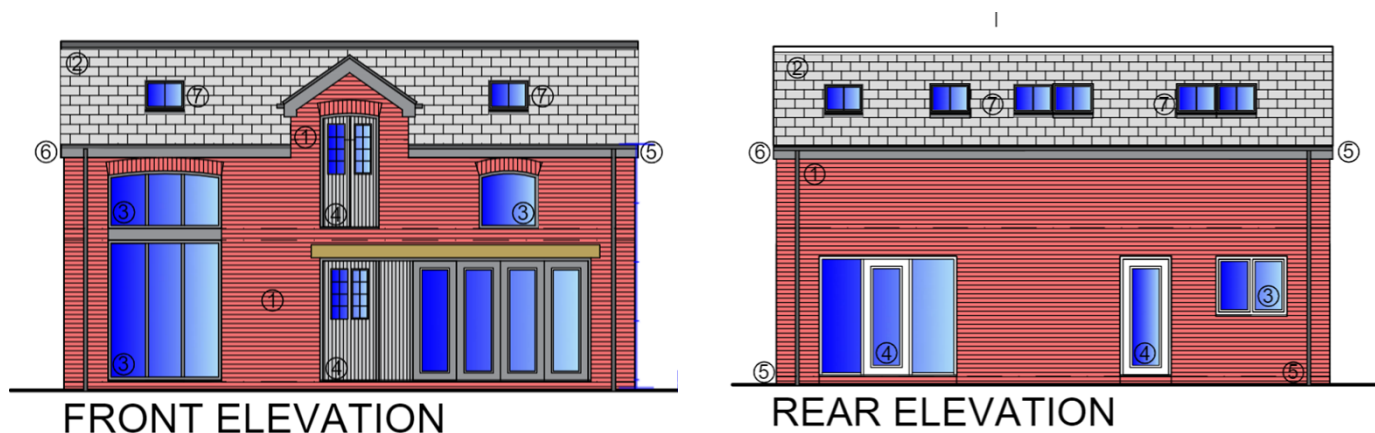
- 4.1 This application is for the approval of reserved matters following the conditional consent of an outline application for the erection of 1 dwelling at the application site. The application seeks approval of the appearance, landscaping and layout of the application.
- 4.2 The proposal is for a 1.5 storey dwelling with a footprint of 9.7 metres x 5.7 metres. The dwelling is proposed to have a maximum height of 5.9 metres and the eaves will have a height of 4.2 metres.

4.3 In the west facing elevation (being the front elevation), the dwelling is proposed to have a functional appearance to it with a vertical floor to ceiling window to the north of the elevation and a wide expanding series of vertical windows to the south side. Centrally, at first floor level, a window in a small gable in proposed which adopts the appearance of being used as a door alongside an arched window. Two roof windows are also proposed in the roof slope.

4.4 The ridge line of the proposed dwelling is to run along the north / south axis of the application site and therefore the gables of the property will present to the north and south. No windows are proposed in the gables.

4.5 In the rear elevation, the proposed dwelling will include a patio door to the south of this elevation, which will be surrounded by glazed windows on either side of the door, to be the same height as the patio door. A single door is proposed to be located to the north of the elevation, with a window also located to the north of this. No windows are proposed in the east facing elevation at first floor level. A series of 6no. roof windows are proposed in the roof slope.

4.6 The proposed dwelling is detailed to be finished in brick work the match the surrounding houses, with blue slate roof. The windows will be finished in grey upvs with doors being upvc grey / timber boarded. Rain water goods are to be plastic black and the roof windows will be grey.



4.7 The application proposes the retention of no.1 of the existing garages; the one located to the north east of the application site, that shares a boundary with numbers 61, 67, and 69 York St.

5.0 CONSIDERATIONS

5.1 **Planning Policy**

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

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

CLP1 Spatial Strategy (Strategic Policy)

CLP2 Principles for Location of Development (Strategic Policy)

CLP3 Flexibility in Delivery of Housing (Strategic Policy)

CLP4 Range of Housing

CLP13 Managing the Water Cycle

CLP14 A Healthy Environment

CLP16 Biodiversity, Geodiversity and the Ecological Network

CLP20 Design

CLP22 Influencing the Demand for Travel

5.3 **National Planning Policy Framework**

Part 2. Achieving sustainable development

Part 4. Decision-making

Part 5. Delivering a sufficient supply of homes

Part 8. Promoting healthy and safe communities

Part 9. Promoting sustainable transport

Part 12. Achieving well-designed places

Part 14. Meeting the challenge of climate change, flooding and coastal change

Part 15. Conserving and enhancing the natural environment

5.4 **Supplementary Planning Documents**

Successful Places' Residential Design Guide

5.5 **Key Issues**

- Principle of development
- Design and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highways safety and parking provision;
- Biodiversity, impact on protected species
- Ground conditions

- Drainage and flooding
- CIL liability

5.6 Principle of Development

5.6.1 The principle of the development has been established in the outline consent CHE/21/00286/OUT. The officer report for this outline consent is noted to have discussed the appropriateness of the location of the application site as being considered a sustainable location and delivering the criteria set out in Local Plan policies CLP1 and CLP2.

5.6.2 As the principle has been established, development will need to accord with wider policies of the Local Plan which have been raised as a result of the submission of further information – namely being CLP14, and CLP20. This report will assess to what extent the development is considered to be acceptable given the submission of further information in this application.

6.0 CONSIDERATION

6.1 Design and Appearance of the Proposal

6.1.1 Local Plan policy requires that “All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context, that development will be expected to a) promote good design, and b) respect the character, form and setting of the site and surroundings.”

6.1.2 It is noted at the outline submission, the proposed development was limited to a reduced height of 1.5 storey and no windows are to be included in the upper floor rear elevation. The submitted dwelling complies with both of these requirements and therefore is considered to conform to the requirements of the outline consent.

6.1.3 Following the submission of revised drawings received on 07/07/2022, the dwelling now takes a functional appearance as recommended by the officer in the outline report. This was considered the best approach to ensure the dwelling could comply with the requirements to have no windows in the upper floor rear elevation whilst also having a 1.5 storey limit in height.

6.1.4 The outline report indicated however that the placing of windows in the proposed dwelling needed some review at the reserved matters stage to ensure the building adopted an appropriate functional appearance whilst also assimilating with the application site. The application site is located in

an area typically characterised by terraced dwellings which are finished in red old brick. A dwelling of similar appearance at the application site to those surrounding is not considered to be appropriate due to the constraints presented by the site and the need to demonstrate compliance with the current adopted Local Plan. A functional appearance is therefore considered to give character to the streetscene and not be significantly at odds with the established character. It is therefore considered, the functional appearance of the dwelling proposed appropriately addresses and overcomes the constraints of the application site. The dwelling will have a reduced height in comparison to the neighbouring dwellings and this will assist in minimising the presence of the dwelling within the streetscene. It is acknowledged that the proposal is to be set slightly forward (approximately 0.7 metres) of the neighbouring dwellings on Eyre Street East however, as is to be discussed in the report, this is to ensure compliance with regards to the amenity of the occupants and neighbouring occupants. It is accepted that this will be a minor anomaly in the streetscene owing to the defined established building line but having regard to the separation distances afforded to the neighbouring dwellings (no. 16 Eyre Street East and no. 18 Eyre Street East), it is not considered this is sufficiently harmful such that a refusal is warranted.

- 6.1.5 The dwelling is proposed to be finished in brick to match the neighbouring dwellings. This is considered to be an acceptable material to ensure the dwelling is acceptable in appearance. The use of brick to match the neighboring dwellings is also considered to ensure the application site adds to the established character of the area. It is considered appropriate however for this LPA to have details of the materials to be used prior to the ordering to ensure the match of the brick is acceptable – a suitably worded planning condition can be imposed to ensure this information is forthcoming.
- 6.1.6 Overall, it is therefore considered the proposed development is appropriate to the existing area and its surroundings and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of Local Plan policy CLP20.

6.2 Impact on Neighbouring Residential Amenity

- 6.2.1 Policy CLP14 of the Local Plan sets out that; All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts.

- 6.2.2 It is noted that concerns were raised at the outline stage (and the reserved matters stage) for the impact that the erection of a building on this site will have on the neighbouring residential dwellings through the loss of light and overlooking.
- 6.2.3 Having regard for the residential amenity of the occupants of the proposed dwelling, it is considered the proposal offers acceptable living accommodation within the constraints of the application site. The dwelling has a gross internal floor area of approximately 92 square metres. This internal floor area exceeds the minimum standard (of 84 square metres for a three bed, 4 person dwelling) set as set out in the Nationally Described Space Standard. Although not adopted by this LPA, the document can be used as an indicator of the level of amenity any proposed dwelling will offer. Whilst the dwelling provides sufficient space, the bedroom labelled as bedroom 3 is noted to be smaller than the minimum recommended. Bedroom 3 measures approximately 6.6 square metres however to be considered as a single bedroom, the NDSS states that a bedroom should be a minimum of 7.5 metres squared. Both the master bedroom (bedroom 1) and the second bedroom comply with the standards for double and single occupancy rooms respectively; hence the dwelling is therefore considered to be a three bed, four person dwelling. Whilst it is acknowledged the third bedroom is lacking in the floor space area, it is considered overall, the dwelling provides an acceptable level of amenity for any future occupants whilst resulting in a development that addresses the site constraints.
- 6.2.4 Having regard to the outdoor amenity space, the matter regarding the reduced depth of the garden was addressed in the outline application. Notwithstanding the reduced depth, the proposal offers approximately 78 square metres of amenity space which exceeds the recommended minimum of 70 square metres as set out in the Councils adopted SPD "Successful Places". It is considered the amenity space will be private as a result of the existing layout of the dwellings surrounding the application site with no dwellings being located immediately to the east of the application site; hence the reason of the reduced depth can be accepted.
- 6.2.5 The outline application accepted that the gardens of nos. 59 and 61 York Street would likely receive some loss of light in the evening - mainly in the summer months – however the neighbouring dwelling to the south of the application site (no. 16 Eyre Street East) was noted to be likely to already cause a degree of overshadowing to these gardens as it is located to the to the south west of the gardens. The outline application concluded therefore with a reduced height (of 1.5 storeys) the dwelling proposed could be accommodated within the application site without a degree of harm to the

neighbouring gardens that evoked the need for a refusal. Given the siting and height were agreed at the outline stage, this is a matter that has already been addressed.

- 6.2.6 It is noted however that the reserved matters application seeks to retain one of the existing garages that is located at the north east corner of the application site. This is not considered to cause harm to the neighbouring dwellings and is therefore considered to be acceptable. In conjunction with the retention of one of the existing garages, the application proposes to retain the existing rear wall of the garages as the boundary of the application site. This will therefore form the east boundary of the application site, as well as part of the west application site boundary. The wall is indicated to have a height of 2 metres. The west boundary of the application site is detailed to be formed by the north facing elevation of no.16 Eyre Street East as well as the existing wall that is located to the west of the application site and also forms part of the boundary at the south west corner of the site. The retention of the wall around the perimeter of the application site is considered to be acceptable and is welcomed as a means of retaining character at the application site as well as privacy for the neighbouring dwellings. Finally, the north boundary of the application site is detailed to be formed of a 0.9 metre high fence. This will extend to the front (west) elevation of the proposed retained garage.
- 6.2.7 The proposed dwelling is to be located on a parcel of land that is currently utilised for garages. Given the use has not previously been residential it is considered essential to achieve a design that is sensitive to the neighbouring properties so as not to cause detrimental impact to the occupiers of them. It is considered, overall, the scheme proposed seeks to limit opportunities for overlooking to the neighbouring dwellings. This is demonstrated by the limited height of the proposed dwelling, as well as the omission of windows in the first floor east facing elevations. In addition, no windows are proposed in the gables of the property and this is welcomed to retain privacy for the neighbouring occupants. It is considered this privacy will be retained through the Permitted Development legislation as windows installed at first floor level in a side elevation are required to be obscurely glazed and non-opening unless the opening is 1.7 metres above first floor level. It is therefore considered unreasonable to impose a condition for this matter.
- 6.2.8 It is therefore considered, the proposed development accords with policy CLP14 and CLP20 of the Local Plan as the development is considered to have an acceptable impact on the amenity of the adjoining occupiers

through appropriate design which responds to the character of the application site and wider area.

6.3 Highways Safety and Parking Provision

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

6.3.2 To determine the impact of the proposed development on the immediate highway and surrounding area, the Local Highway Authority were consulted. The comments received on 10/05/22 indicated the following;

“The Site Plan submitted with this current application demonstrates sufficient levels of off-street parking by way of driveway to serve the proposed dwelling, it now appears that an existing single garage associated with the site will be retained. Whilst the existing garage is below recommended dimensions, the proposed off-street parking bays fronting the garage are sufficient to serve a 3no bedroom dwelling, therefore, in view of the Site Plan being the same in principle as what was proposed as part of the outline application the Highway Authority has no objections to the proposals subject to the following conditions being appended to any consent: -

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

2. Before any other operations are commenced (excluding condition 1 above), the existing access to Eyre Street East shall be modified in accordance with the application drawings, laid out, constructed and provided with 2.4m x maximum visibility splays in both directions. The area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

3. Prior to the occupation of the dwelling, any length of the existing vehicular access to Eyre Street East made redundant by the development proposals shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

4. *The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking of resident's vehicles, laid out, constructed and maintained throughout the life of the development free from any impediment to its designated use.*

5. *There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.*

6. *The modified access/driveway to Eyre Street East shall be no steeper than 1 in 12 over its entire length.*

7. *No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.*

In addition to the above Conditions, the following notes should be appended for the applicant's information:

a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*

b. *Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – highways.hub@derbyshire.gov.uk The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.*

c. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

d. The Highway Authority recommends that the first 5m of the modified 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 landowner.

e. There is a street lighting column on the site frontage, any necessary relocation of this and/or diversion/protection of Statutory Undertakers apparatus will be at the applicant's expense."

6.3.3 The comments received from the LHA are noted and it is considered appropriate for the development proposed. It is highlighted however that the conditions (numbered 1 – 6) as recommended by the LHA were imposed on the outline consent and therefore do not need to be repeated on any approval of the reserved matters. The informative notes can be appended to any decision notice for the applicant's information.

6.3.4 It is noted the officer report for the outline application indicated that the then indicative layout plan included car parking spaces that did not meet with the current adopted standards (2.4 metres x 4.8 metres) as set out in the SPD. The two spaces as indicated have been amended in this submission both now measure the required minimum. It is acknowledged however that the space noted as car parking space 2 is not set the minimum set back away from the garage (minimum measurement being 5 metres) to account for the garage door opening. It would not be possible to achieve this set back as well as ensuring the two car parking spaces are of a sufficient size to comply with the SPD however, as the garage proposed to be retained does not meet current guidelines with regards to the internal measurements. Given the site demonstrates 2no. off street parking spaces to a satisfactory standard, it is considered unreasonable to require the set back space in front of the garage to be requested (and thereby cause a loss in 1no. off street parking space) when the garage does not contribute to the off street parking provision.

6.3.5 It is not considered appropriate or necessary to require the developer to provide details of arrangements for the collection of waste. The proposal is for 1 no. residential dwelling and therefore it is considered the waste will be presented at the front of the property, adjacent to the public highway edge like the other properties within the street. If this is not the case, the developer will need to ensure the waste collection is presented at the correct location however this is not considered a reasonable requirement for one dwelling in an established residential area.

6.3.6 On the basis of the comments received, the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.4 Biodiversity, impact on protected species, enhancement and Trees

6.4.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.4.2 It is noted in the Outline officer report that the case officer considered the site to “*be unlikely to have any potential for protected species but to ensure the applicant is aware of the legislative requirements in terms of protected species an informative note will be added to any decision setting out the requirements of The Wildlife and Countryside Act 1981.*” The case officer noted that as a result of the “application site being fully hard surfaced with flat roofed garages” the biodiversity value was considered to be very low, if not nil and therefore considered an enhancement would be likely to be achievable through the incorporation of appropriate landscaping and integral bat boxes. A condition was therefore imposed on the outline consent which reads as follows;

“Prior to the development hereby permitted commencing above slab level, a scheme (including a programme of implementation and maintenance) to demonstrate a net measurable gain in biodiversity through the development, shall have been submitted to and approved in writing by the Local Planning Authority. The net measurable gain shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.”

6.4.3 It is considered the information provided on drawing no. 102/49 04 REV B is not sufficient to allow adequate assessment of the biodiversity enhancement

at the application site. This is due to the drawing not providing details with regards to the planting proposed, the implementation and maintenance of such, or details of any bird / bat roost boxes to be included within the scheme. It is noted that the reserved matters submission was required to include the landscaping of the application site (in accordance with condition 2 of consent CHE/21/00286/OUT).

6.4.4 The submitted drawing does however provide indication as to what parts of the site are to be hard landscaped and those which are to be soft landscaped, and this can be considered acceptable for this application. It is highlighted that further information with regards to the specific detailing of the hardsurfacing and plant species to be included at the application site is to be provided to this LPA. It is therefore considered reasonable to impose a planning condition that requires the submission of a soft and hard landscaping scheme which will be submitted prior to works progressing above damp proof course level. The details submitted should include precise details and specifications of all hardsurfacing to be used, as well as the species, number and size of plants to be included at the application site. The details should also include the number of and siting / locations of bird / bat roosting boxes to be included at the application site.

6.4.5 Subject to the development complying with the above recommended condition, the development is considered to comply with Local Plan policy CLP16.

6.5 Climate Change

6.5.1 Local Plan policy CLP13 (Managing the water cycle) states that “development proposals will be expected to demonstrate that water is available to support the development proposed and they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.”

6.5.2 Given the specific requirements of a planning condition to secure this through building regulations, a condition would normally be imposed on any decision granted however it is noted such a condition has been imposed on the outline decision and thereby the development will be bound by the requirements of Local Plan policy CLP13 through the outline consent.

6.6 Ground conditions and air quality

6.6.1 Having regard to Local Plan policy CLP14 (A Healthy Environment), the case officer reviewed the comments made by the Coal Authority in respect

of the outline planning permission (CHE/21/00286/OUT) and noted the Coal Authority requested a condition to be imposed on the outline consent for the undertaking of intrusive site investigations and remediation works to take place as necessary for land instability matters that arise from coal mining legacy.

- 6.6.2 Information regarding intrusive site investigations have not been submitted with this application and it is therefore considered the condition imposed on the Outline application remains outstanding. There is no requirement for the LPA to impose the condition on any positive decision issued in respect of this application as the applicant will need to comply with the condition imposed on the outline consent.
- 6.6.3 Similarly, the outline report imposed a condition which required the developer to install Electric Vehicle Charging provision at the application site to be made available for use by the residential development. This was imposed as recommended by the EHO in the outline consultation process. The **EHO** raised no objections to the proposed development set out in this application.
- 6.6.4 It is therefore considered, subject to the applicant complying with the coal mining legacy condition and EVCP condition imposed on the outline consent, CHE/21/00286/OUT, the development will comply with the relevant requirements of adopted Local Plan policy CLP14.

6.7 Drainage

- 6.7.1 Having regard to CLP13 (Managing the Water cycle) of the Local Plan, the application was referred to **Yorkshire Water Services (YWS)** and the Council's **Design Services (DS)** team for comments regarding the flood risk of the application site and drainage.
- 6.7.2 The **Design Services** team returned the following comments;
“The revised matters received are not drainage related; therefore, I would refer back to my original comments in the initial application, and in particular to the presence of the public sewer on the development site and trust this has been taken into consideration.”
- 6.7.3 During the outline application consultation process, the Design Services team returned comments that indicated the following;
“A combined public sewer is shown to cross the south western part of the plot. The developer should liaise with Yorkshire Water as to the proximity of this sewer, as a Building Over Agreement or easement may be required.”

The site should also be developed using separate systems of foul and surface water drainage.

Any connections to any public sewer would require prior approval from Yorkshire Water. Any amendments to existing drainage on site may require consent from Building Control.”

6.7.4 It is noted the comments regarding the need for the site to be developed with separate drainage systems have been imposed as a planning condition on the outline planning consent and the comments regarding a public sewer crossing part of the south west of the application site were included as an informative to the decision notice. It is for the applicant to ensure that the design put forward takes account of this feature within the site and allows sufficient easement. Subject to the development according with the conditions imposed on the decision notice in respect of the outline permission, it is considered the application of consideration here accords with the provisions of adopted Local Plan policy CLP13.

6.7.5 Yorkshire Water Services also responded to the consultation process noting that *“YW have no observation comments to make on this reserved matters application. Proposed foul and surface water drainage proposals can be dealt with via a future discharge of conditions application, in this instance 7 and 8 from the granted decision notice dated 22 June 2021.”*

6.7.6 It is therefore considered on the basis of the comments received from YWS that no concerns are raised from this consultee in respect of this application. The applicant is reminded of the need to comply with all conditions imposed on the previously granted outline planning permission.

6.8 Development Contributions and CIL Liability.

6.8.1 In April 2016, this LPA adopted a Community Infrastructure Levy (CIL) charge; all new dwellings are subject to this levy. The CIL tariff is separated into low, medium and high zones and this site is located within the medium zone. A charge therefore would be calculated on the medium zone rate of £50 per square metre (index linked).

6.8.2 The CIL charging figure has been calculated as below:

		A	B	C	D	E
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
107	15	92	£50	332	288	£5302.77

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

$$\frac{92 \times 50 \times 332}{288} = £5302.77$$

6.8.3 On the basis of the above, a CIL liability notice will be issued concurrent with the issuing of any decision granted.

7.0 REPRESENTATIONS

7.1 The application has been publicised for the minimum required time period and 3no. comments have been received from the same neighbour. The comments raise the following matters:

- Appropriate sun and daylight assessments have been carried out in line with Light and Proximity section of adopted SPD – **see section 6.2**
- Would the proposed have an adverse effect on the outlook from the rear windows and amenity space contrary to outlook section of Councils SPD
- Concerns for loss of light and restricted outlook from the rear of properties due to how dominant the two storey building will look from the rear of nos. 67 and 69 York St. – **see section 6.5**
- Amenity: minimum distance required from habitable windows of existing dwellings to the gable end of the proposed – **see section 6.2**

7.2 ***The representations received raise specific queries in respect of outlook, impact on light and the shading that may be caused by the development proposed however it is acknowledged that these matters (siting and scale) were addressed at outline stage as a result of the need to have appropriate limitations applied to the height and siting of the proposed dwelling. Notwithstanding this however, this reserved matters report has sought to ensure the appropriate appearance of the***

dwelling proposed as well as ensuring it complies with the agreed details at the outline stage.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 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
- 8.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 8.3 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.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

- 9.1 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 2019 National Planning Policy Framework (NPPF).
- 9.2 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.
- 9.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

10.0 CONCLUSION

- 10.1 The application is seeking consent for the appearance, layout and landscaping of the previously approved outline application for 1no. dwelling at the application site. Owing to the sensitive nature of the application site, the outline application had imposed restrictions in terms of the overall height of the dwelling to be sited at the site, as well as restricting the addition of windows to the rear (east) facing elevation at first floor level.
- 10.2 Overall, it is considered the proposal puts forward acceptable development on a site that is constrained as a result of existing neighbouring dwellings and land levels. It is considered the appearance of the proposed dwelling is acceptable in adopting a functional appearance which is different to the neighbouring dwellings which are typically terraced dwellings. The scheme does not give rise to substantial concerns that would cause this LPA to issue a refusal and given the principle of the development has already been accepted, as well as siting and scale details, it is considered the proposal adequately complies with the identified policies of the Local Plan and wider NPPF.

11.0 RECOMMENDATION

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

Conditions

1. 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).
 - Planning drawing plans, elevation and site plan – drawing ref. 102/49 – drawing no. 04, Rev B – Scale as indicated @ A1

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.
2. Prior to the ordering of external materials taking place, precise specifications or samples of the walling and roofing materials proposed 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 agreed by the Local Planning Authority in writing.

Reason – This condition is imposed to ensure the materials to be used are acceptable for the surrounding area and in accordance with Local Plan policy CLP20.

3. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscaping works for the approved development shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc) retained historic landscape features and proposal for restoration, where relevant. The required soft landscaping 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, or any implementation programme and a schedule of landscape maintenance for a minimum period of five years. These works shall be carried out as approved prior to the occupation of the dwelling hereby approved, or in the first planting season after agreement of the details, whichever is sooner.

Reason - This condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole and is in accordance with Local Plan policy CLP16 and CLP20.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. 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

4. Appropriate ecological/biodiversity enhancement measures shall include (but not limited to) the following;
 - bird/owl/bat boxes and details submitted shall include the number of units proposed, the location proposed, and a timescale for implementation

- biodiverse planting and landscaping including trees, hedges and native species and a programme of implementation and maintenance
 - wildflower planting and nectar rich planting for bees and night scented flowers for bats including a programme of implementation and maintenance
 - measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance
 - holes in fences and boundary treatment to allow species to move across the site
 - bee brick
5. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
 6. Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – highways.hub@derbyshire.gov.uk The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
 7. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
 8. The Highway Authority recommends that the first 5m of the modified 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 landowner.

9. There is a street lighting column on the site frontage, any necessary relocation of this and/or diversion/protection of Statutory Undertakers apparatus will be at the applicant's expense.



This page is intentionally left blank

Item 2

Case Officer: Chris Wright

Application No: CHE/22/00203/COU

Change of use of store room to bedroom within house in multiple occupation (description amended 12/04/22) at 20 Albion Road, Chesterfield for Dovedale Property Lettings Ltd.

Date: 22/07/22

Ward: Brockwell

1.0 CONSULTATION RESPONSES

Ward Members	- No comments received.
Highways Authority	- No objection
Environmental Health	- No objection
Chesterfield Cycle Campaign	- No comments received
CBC Private Housing	- No objection
Derbyshire Constabulary	- No objection
Neighbours	- No comments received.

2.0 THE SITE

2.1 This application concerns No 20 Albion Road which is a two storey terraced building with occupied space in the attic. It used to be a 4 bedroom dwelling (use class C3a), but it has since been converted using permitted development rights into a 6 bedroom house of multiple occupancy (use class C4). It is situated on the northern side of the street. It is a part of a red brick building with dormer windows to the front and rear elevations. The building has a conservatory/garden room to the rear that has access directly from the dwelling, and which has been created since the last application. On the ground floor there is a bedroom, lounge area, kitchen/diner and utility room. On the first floor there are 3 bedrooms and a storage room. In the attic space there are 2 bedrooms. 5 of the rooms have en-suite bathrooms, with 1 additional bathroom on the 1st floor.

2.2 The property is within a generally residential area and is surrounded by housing to the north, south and west. All surrounding properties are in

residential use. To the north there is a car parking area related to commercial units along the Saltergate frontage.

- 2.3 The property has a small front garden area with low front boundary wall and a 60 sqm back garden area. There is no off-street parking related to the dwelling however resident only on-street parking is available along the northern edge of the street. On the southern side of the street there is a footway/cycleway.
- 2.4 Three houses on the opposite side of the street have been converted into flats (multiple occupation) at no.23, 25 and 27) as referred to in the site history section of the report.

3.0 SITE HISTORY

- 3.1 CHE/19/00784/FUL - Change of use of 20 Albion Road from dwelling house (use class C3) to house in multiple occupancy (7 lettable rooms - use class C4) and provision of a new 1st floor window to front elevation (revised drawing and information received on 24/02/20) – refused by planning committee on 10/03/20 for following reasons:

1. The development is contrary to the best interests of the amenity of local residents. The proposed conversion to a property in multiple occupation would increase the likelihood of the property being occupied by short term tenancies which are more likely to attract a higher proportion of residents with social problems, chaotic lifestyles and no connection or affinity for their surroundings. The street is already suffering from serious anti-social behaviour issues which are causing significant impacts on the existing residents who fear for their safety and the proposal brings with it the prospects of a worsening situation. This is considered to be harmful to the safety of the local community and residential amenity in general and is considered to be contrary to the requirements of Policy CS2, CS15 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031 and the wider requirements of the NPPF 2019.
2. The development is contrary to the best interests of pedestrian and highway safety. The proposed development would increase the likelihood of indiscriminate vehicle parking on the pavement and cycle route. This is considered to be harmful to the safe operation of the highway on a one way road of limited width. The proposal therefore fails to accord with the requirements of Policy CS18 (g) of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031, which expects developments to

provide adequate and safe vehicle access and parking. The development would conflict with the wider requirements of the NPPF.

3.2 Relevant applications in locality –

23 Albion Road – CHE/1092/0602 – Conversion of the property to a House in Multiple Occupation (HIMO) was accepted as permitted development on 17th November 1992.

25 Albion Road – CHE/05/00116/COU – Change of Use of Office to Dwelling was granted on 14th April 2005

25 Albion Road – CHE/14/00453/COU - Change of Use of single residential dwelling into 3 flats with retention of current basement flat – Conditional Permission – 16th September 2014

27 Albion Road – CHE/17/00585/COU - Change of Use of house to create 3 flats and retention of lower basement flat – Conditional Permission – 10th October 2017

4.0 **THE PROPOSAL**

4.1 Planning approval is sought to change the store room on the first floor into an additional bedroom and which, as a result, changes the building into a larger house of multiple occupancy (use class Sui generis).

4.2 The first floor store is at the front of the property and comprises a floorspace of 8.7 square metres. No other changes are proposed to the property.

5.0 **PLANNING POLICY**

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

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

- CLP1 Spatial Strategy
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP4 Range of Housing

- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

- Chapter 2. Achieving sustainable development
- Chapter 5. Delivering a sufficient supply of homes
- Chapter 7. Ensuring the vitality of town centres
- Chapter 8. Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 12. Achieving well-designed places

5.4 Supplementary Planning Documents

- Successful Places Residential Design Guide

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 Planning permission was previously refused for the conversion of this property to a 7 bed House in Multiple Occupation in March 2020 as referred to at para 3.1 above (CHE/19/00784/FUL). As a reaction to the refusal and rather than appeal the decision the property owner decided to convert the property to a 6 bed House in Multiple Occupation under permitted development rights. The regulations allow for the conversion of a single dwelling (use class C3) to a House in Multiple Occupation (C4) “by not more than six residents”.

Under the Use Classes Order, such conversions relate only to small shared houses occupied by between three and six unrelated individuals, as their only or main residence, and who share basic amenities such as a kitchen or bathroom.

The conversion of an additional room to a further bedroom (bringing the total to seven), would take the whole property out of use class C4 and into a Sui Generis use class. The application should therefore be considered as a change of use of the entire property and the impact of the use addressed as a whole, rather than just as the change of use of a storage room.

6.1.2 The application site is not allocated for any specific use in the adopted Local Plan. However it is centrally located with access to a wide range of

key facilities by walking and cycling and in principle such residential uses in this location accord with the spatial strategy as expressed in policies CLP1 and CLP2 of the adopted Local Plan.

- 6.1.3 On the basis that a residential use accords with the principle of uses as set out in policy CLP14 and it is also appropriate to consider policies CLP1 and CLP2 which seek to direct new development to locations within walking and cycling distance of centres. In addition, policy CLP20 seeks to maximise the use of walking, cycling and public transport through the location of development and the council's residential SPD describes a 'walkable' development as one that has access to a good range of facilities within typically a 10-minute walking distance via a safe, convenient route. The application site is located in such a position within easy walking distance of Chesterfield Town Centre, within the built up area and on previously developed land and where easy access to services, employment, open space, cycle route and public transport are available.
- 6.1.4 On balance the proposal generally accords therefore with policies CLP1 and CLP2, and the locational aspects of CLP20, and supports the council's overall Local Plan in terms of the location for new development within the Borough in a sustainable position. A residential use is considered to be acceptable in principle, subject to meeting the more detailed criteria within policies CLP14 and CLP20 which considers the amenity of residents.
- 6.1.4 The proposed development is considered acceptable in principle against policies of the Local Plan and the wider objectives of the revised NPPF which encourage sustainable development, however an assessment of the detailed impacts are required under policy CLP14 and CLP20 as referred to below. With regard to policy CLP22 the highways impact of the proposal will also be assessed in the highways section below.

6.2 Design and Appearance of the Proposal

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 6.2.2 The proposal does not include any external changes to the building. In this regard the proposal is considered to have no impact on design and appearance and is acceptable from a planning perspective. The proposal

therefore accords with the provisions of policy Local Plan policy CLP20 and should be approved in this regard.

6.3 Residential Amenity/anti-social behaviour

- 6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 6.3.2 Policy CLP20 also states that "All development will be expected to: b) 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; c) be at a density appropriate to the character of the area whilst not excluding higher densities in and close to designated local, district and town centres; g) provide adequate and safe vehicle access and parking; k) have an acceptable impact on the amenity of users and neighbours; l) be designed to be safe and secure and to create environments which reduce the potential for crime."
- 6.3.3 The site has been converted using permitted development rights from a single traditional dwelling into a small house of multiple occupancy (HMO). The previous application to convert the house into a 7 bed HMO was refused due to its potential to impact the amenity of local residents and highway safety. It was argued that the proposed conversion would increase the likelihood of the property being occupied by short term tenancies which are more likely to attract a higher proportion of residents with social problems, chaotic lifestyles and no connection or affinity for their surroundings and that this was of particular relevance because the street was already suffering from serious anti-social behaviour issues which were causing significant impacts on the existing residents who feared for their safety. The proposal brought with it the prospects of a worsening situation at odds with the safety of the local community and residential amenity in general. The previous application was the subject of serious objections from local neighbours, ward member, the police and the Community Safety Partnership.
- 6.3.3 The building has since been converted into a 6 bed dwelling and it is appropriate therefore to consider what has changed over the last two years because the current proposal is essentially the same scheme as was refused in 2020. Since conversion the HMO has been appropriately managed by the landlord. The current application has been advertised

locally with adjoining residents, but no objections have been received on any matter, including the potential negative impacts of increased levels of anti-social behaviour.

6.3.4 Derbyshire Constabulary has been consulted on the scheme and they comment:

“Having taken stock of recently reported incidents to us in the locality, and after consultation with the area Police Safer Neighbourhood Team, there would be no quantifiable reason for us objecting to one additional occupied room within the existing six bed H.M.O at 20 Albion Street.”

6.3.5 In general it is considered that an increase of poorly managed HMOs/shared houses can lead to an increase in anti-social behaviour in a locality. Prior to the previous application being submitted there had been an increase in such activities in the local area with significant calls for service from the police, and it was considered at the time that the previous scheme could have added to the situation. It is understood that there have been changes to the management to other HMOs in the locality, but this is not confirmed. As no objections have been received on the matter from any party it can be assumed that the building is being managed properly and its residents have not contributed to any significant increase in negative behaviour locally. Indeed the applicant has provided a supporting statement which states that there have been no problems of or issues over the last 2 years and that councillor Fordham has praised the efficient manner in which the accommodation has been managed.

6.3.6 The Council’s Private Housing Team has commented on the proposal, and they considered that the property and storeroom are of an adequate size and have adequate facilities to accommodate an additional single occupant. They confirm that the house will have to adhere to the rules and regulations within the existing and amended HMO Licence attached to the property.

6.3.7 It is the case that the proposed bedroom size exceeds the Nationally Described Space standard for a single bedroom however as a shared HMO the NDSS does not set a standard for overall space provision and it is the case that the Council has not adopted these standards in any case.

6.3.8 The opening and management of the smaller HMO since the refusal in 2020 has allowed local residents to experience how the house’s residents would impact the neighbouring residents’ amenity and how the property has been managed and the lack of any issues and comments from local residents can be taken as positive feedback in this regard. It appears the

legitimate concerns expressed in 2019 / 20 have been resolved such that the current proposal is now considered acceptable and a refusal of permission could not be sustained on the basis of a current lack of evidence in this regard.

6.4 Highways Safety

- 6.4.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety. In relation to highway safety the proposal includes 7 bedrooms and no parking spaces, which is common in this part of the Town. Parking permits are required to utilise on-street parking. The Highway Authority has also confirmed that they have no objections to the proposal.
- 6.4.2 There is no opportunity to provide any off-street parking provision. The site has to be considered on the basis of its central location close to public car parks but also the services and facilities close at hand in the town centre and the availability of public transport opportunities. A cycle route also passes immediately in front of the property.
- 6.4.3 With the original scheme there were several comments from local residents that the proposal could have led to some increase in demand in parking permit spaces in the area and the prospect of more frequent illegal parking on the pavement and cycle lane. The reason for refusal in 2020 stated that the proposed development would increase the likelihood of indiscriminate vehicle parking on the pavement and cycle route and that this was considered to be harmful to the safe operation of the highway on a one way road of limited width.
- 6.4.4 No objections have been received from local residents on this matter with this application and the applicants agent has stated that the anticipated vehicle parking difficulties have certainly not materialised. It is considered that due to its location and access to on-street parking and car parks in the local area that the addition of one more resident to the existing dwelling will not lead to any significant negative impact sufficient to justify a refusal. Current evidence available indicates that the use of the property is not having a detrimental impact upon the highways network of the local area. The Cycle Campaign has been consulted and unlike on the last application in 2020 they have not raised an objection to the current submission. On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.5 Biodiversity/landscaping

6.5.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the borough’s ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.5.2 The proposed development is considered to be a minor development and does not result in the loss of an existing species rich habitat area. As the proposed changes are internal only there will be no anticipated impact on biodiversity and no specific condition related to Net Gain would be required. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

7.0 REPRESENTATIONS

7.1 No comments received.

8.0 HUMAN RIGHTS ACT 1998

8.1 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

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council’s Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF and with ‘up-to-

date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

10.0 CONCLUSION

10.1 A comparison with the circumstances which prevailed in 2019/20 have demonstrated that the impacts on local amenity have been resolved and no concerns have been identified by any party. Overall the proposal to add a seventh lettable room is now considered to be acceptable in accordance with the policies of the Local Plan as set out above subject to the recommended conditions.

11.0 RECOMMENDATION

11.1 It is therefore recommended 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.

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

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below):

- Site location plan
- Existing Floor plans
- Proposed Floor plans

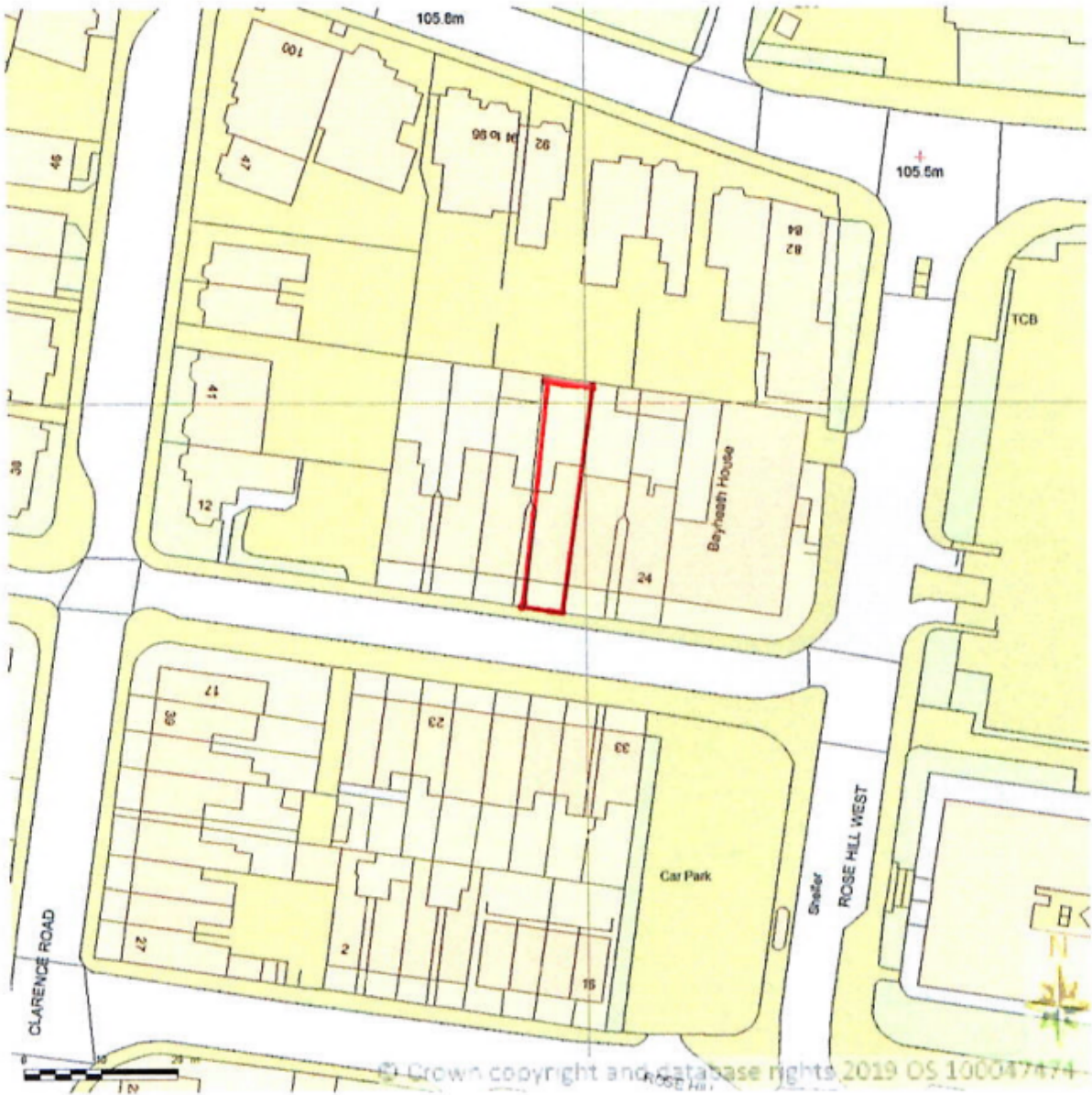
Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised,

as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

This page is intentionally left blank



This page is intentionally left blank

ITEM 3

Case Officer – A Hayes

CHE/20/00496/FUL - DEMOLITION OF 7 BUILDINGS AND ERECTION OF 12 NEW UNITS (USE B2 / B8) WITH ANCILLARY OFFICES, ASSOCIATED CAR PARKING AND EXTERNAL VEHICULAR AREAS / LANDSCAPING (ADDITIONAL INFORMATION RECEIVED 28/10/2020, 05/11/2020, 21/01/2021, 12/03/2021, 06/07/2021, 29/09/2021, 04/10/2021, 05/07/2022, 06/07/2022) ON LAND OFF STATION ROAD, OLD WHITTINGTON, DERBYSHIRE, S41 9AW FOR W H BUTLER AND SONS (FOUNDERS) LTD

Committee Date: 30th August 2021

Ward: Old Whittington

1.0 CONSULTATION RESPONSES

Ward Members	No representations received
Estates	No representations received
Strategic Planning	No objections – see report.
Local Highway Authority	No objection subject to conditions – see report.
Environment Agency	Comment received – see report.
Design Services	No additional comments to those made by the LLFA, YWS and the EA
Yorkshire Water Services	Comments received – see report.
Lead Local Flood Authority	Following the submission of the additional information received 05/07/2022, the LLFA have no objection to the scheme subject to the impositions of conditions.
Coal Authority	No objections subject to imposition of recommended planning conditions – detailed comments received, see report.

Environmental Health	No objections subject to imposition of recommended planning conditions in respect of noise, air quality, land contamination, and lighting - See report
Economic Development	No representations received
DCC Archaeology	The proposals will have no archaeological impact.
DCC Constabulary	No objection to the proposal in principle and no comments regarding the detail.
Network Rail	No objection in principle however recommends use of conditions in terms of safeguarding of the rail. See report
Urban Design Officer	No representations received
Derbyshire Wildlife Trust	Comment received – see report
Chesterfield Cycle Campaign	No representations received
Tree Officer	A landscaping condition should therefore be attached if consent is granted to the application.
Representations	1 x representation received

2.0 THE SITE

2.1 The application site is located on the north west side of Station Road and bound by Whittington Way to the north of the application site. The site can be accessed by both public highways however the access off Station Road is a track, not a tarmacked access road like that of Whittington Way. To the south west of the application site, the site is bound by the railway line whilst to the north west there is an area of vegetation with shrubs and trees. There is also vegetation between the application site and the railway line, some of which is within the application site but not all. The application site is approximately 0.81 hectares in size and is square in shape, with the exception for the access from Station Road which is a linear track. The site

is finished in compacted stone chippings and is uneven in places with large sunken areas which gather and hold water when it rains.

- 2.2 The application site is allocated for Economic Growth (CLP6) and is currently occupied by various industrial based tenants, with documents submitted to support the application indicating the tenants include a shot blaster, a mechanics and car body work repairs / respraying. The application site forms a parcel of land within a wider industrial setting with some units within the setting sharing the same access to the application site but are not included within the red line boundary.
- 2.3 Numerous buildings are situated on the application at present however the largest building, which is located centrally in the site is a large, disused iron foundry. This building is constructed of various materials, including corrugated steel sheeting and corrugated cement sheet. Many of the other buildings in the application site are former of temporary site containers or smaller buildings which are also predominantly constructed in metal.
- 2.4 According to information provided in the application, the site has been occupied as an Iron Foundry since 1965 and the site has remained relatively unchanged to this date.

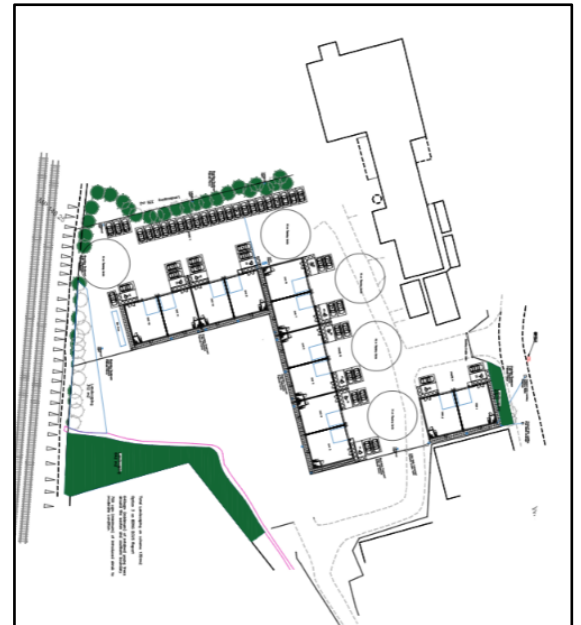
3.0 SITE HISTORY

- 3.1 CHE/1184/0724 – Permission for change of use to timber merchants yard
Conditional permission granted 25/01/1985
- 3.2 CHE/0785/0415 – Permission for change of use from special industrial (Class 6) to General industrial (Class 4) at former foundry
Conditional permission granted 03/09/1985
- 3.3 CHE/14/00454/FUL – Proposed extension to existing machine shop
Conditional permission granted 11/09/2014

4.0 THE PROPOSAL

- 4.1 The application seeks planning consent for the demolition of no.7 buildings and the erection of no. 12 new units with a B2 / B8 use with ancillary officers, associated car parking and external vehicular areas with associated landscaping.

- 4.2 The proposed development will result in an overall reduction of floorspace at the application site from 2,742 square metres to 1,454 square metres. This arises as a result of realigning the site and how the space is used. Currently, the site has developed over time dating from the late 1800s and many of the units are now considered (by the applicant) to be too large for the tenants of the site and therefore the proposal seeks to reduce the size of the units to attract smaller / start up businesses with improved outdoor space and parking provision.
- 4.3 The current layout of ad-hoc buildings (as shown below in the aerial image) are proposed to be demolished, through a phased approach, to allow for the development of a uniformed layout – as shown below.



Above Left: The site as existing – image from Google Maps ©

Above Right: The site as proposed – drawing of submitted layout from agent

- 4.4 The proposed layout will predominantly be formed by 2no. blocks of units, laid in an “L” shape to the south of the application site with an additional unit proposed to the north east corner of the application site.
- 4.5 The proposed unit that extends along the north / south of the site will have a maximum length of 42 metres and have a depth of approximately 13 metres. The block of units that are sited (approximately) east / west will have an overall length of 64.5 metres and a depth of 13 metres. The 2no. units proposed in the north east corner of the site will have a footprint of 21.3 metres x 13 metres.

- 4.6 All of the units proposed will have a uniform appearance with a maximum height of 7.8 metres and the eaves of the monopitched units having a height of 6.3 metres.
- 4.7 The units are detailed to be finished with a low level brick perimeter cavity wall with plastisol coated metal profile sheeting wall cladding with insulation. The windows and doors in the units are detailed to be solar reflective triple glazed windows with powder coated aluminium frames. Each unit will also include an electronically operated insulated metal section up and over door.
- 4.8 The submitted phasing plan, as well as the application form, indicate the site will be bound by galvanised palisade fencing which will have a height of 2.4 metres. The fencing will be sited around the perimeter of the application site at the south and west boundaries however it will be set approximately 1.5 metres off from the rear elevations (south and east) of the units numbered 3 – 8 and 9 – 12 respectively.
- 4.9 The units will all be bound by a pathway which will have a width of 1.5 metres around the perimeter of the blocks. The external area will be finished in tarmacadam, with concrete yard areas / loading bays.

5.0 PLANNING POLICY

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

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP6 Economic Growth (Strategic Policy)
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

Part 2. Achieving sustainable development

Part 4. Decision-making

Part 6. Building a strong, competitive economy

Part 8. Promoting healthy and safe communities

Part 12. Achieving well-designed places

Part 15. Conserving and enhancing the natural environment

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 The proposed development is, as previously noted, located within an area identified in the adopted Local Plan to be allocated for economic growth and therefore policy CLP6 is of consideration when determining this application. To understand the appropriateness of the development proposed, the **Strategic Planning Officer (SPO)** confirms that *“Under policy CLP6 this would be a suitable location for B1 (b&c), B2 and B8 (subject to no unacceptable adverse traffic impacts).”*

6.1.2 The SPO did note however in the comments provided that *“B1a office uses are identified as a Main Town centre use in Annex 2 of the NPPF, and subject to a sequential approach, set out in paragraph 86, intended to direct them to town centres and ‘transport hubs’... I note that no sequential assessment accompanies the current application. Failure to satisfy the sequential test (which can include not submitting such information) can be a reason for refusal (NPPF para 90). As an alternative, given the character of the units proposed, a condition is suggested that prevents the use of any of the units solely for Office use.”*

6.1.3 Following receipt of the above comments, the case officer contacted the agent to confirm, as it was initially thought, that the proposed offices were to be ancillary in association with the occupants of the proposed buildings. This was confirmed by the agent who also indicated the imposition of a condition, as recommended by the SPO was acceptable to their client. The SPO maintained a concern regarding a failure to satisfy the sequential test however given the nature of the proposal it was evident that the applicant was not seeking planning consent for offices that would serve as stand alone office space. On this basis, the imposition of a planning condition to limit the use of the units was considered to appropriate.

6.1.4 The SPO also noted the proposed development will need to demonstrate compliance with wider policies of the adopted Local Plan – notably CLP13, CLP16 and CLP22. Given the recommended imposition of the planning condition however it is considered the principle of the development is acceptable subject to the development demonstrating compliance with the Local Plan.

6.2 Design and Appearance of the Proposal

6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

6.2.2 The layout of the proposed development will have a reduced physical footprint on the application site and as a result, will be more organised and uniform in appearance. The units will have a uniform height and appearance which is considered to be a visual enhancement compared with the application site as existing. The units are industrial in appearance due to the nature of the metal cladding and up and over doors. This is considered to be acceptable given the location and allocation of the application site and giving consideration to the existing appearance of the site.

6.2.3 As the proposed development seeks a reduction in footprint size it is also considered the development is of an appropriate scale for the application site and gives appropriate consideration to the biodiversity enhancement requirements – this is discussed in Section 6.6 of this report.

6.2.4 The application is also accompanied by a proposed phasing plan (received 06/07/2022) which outlines which parts of the site are to be developed when. This is to ensure current tenants of the premises can have business continuity and the project is undertaken in phases. Following a positive determination, this LPA would expect to see information come forward in respect of each phase of the application site.

6.2.5 It is therefore considered that the proposal is appropriate to the existing setting and its surroundings and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

6.3 Amenity

6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.

6.3.2 Overall, it is not considered the proposed development will give rise to amenity concerns for the users of the site or the nearby residential neighbours. The proposed development seeks to provide modern units at the application site and incorporates sustainable design features such as increased insulation and Electric Vehicle Charging points for each unit. This is considered to be acceptable and will continue the established use of the application site that is currently located on land for Economic Growth. It is considered the proposed development will support this allocation in that it will result in a net increase of 5no. units at the site through the alteration and improved layout of the site.

6.3.3 During the consultation process however, the **Environmental Health Officer (EHO)** commented that *“all lighting shall be designed so as not to cause glare / overspill of the site. This shall be added as an advisory note to the decision notice should planning consent be granted.”*

6.3.4 It is noted from the submitted drawings that external lighting is to be included in the proposed scheme and therefore it is considered reasonable for the LPA to condition this requirement as set out by the EHO, rather than include it as an advisory. The requirement for the applicant to ensure all lighting does not cause glare / overspill to be conditioned will ensure that the LPA can take action should the lighting cause an amenity issue to neighbouring premises or indeed residential properties which are located less than 200 metres to the north east of the application site.

6.3.5 On this basis and subject to the compliance with the recommended planning condition, the proposal is considered to accord with the provisions of policy CLP14 of the Local Plan.

6.4 Noise and nuisance

6.4.1 In accordance with the requirements of Local Plan policy CLP14, stating development must have an acceptable impact on the amenity of users and neighbours, the **EHO** made comments in respect of noise matters that may arise as a result of the proposed development, or indeed, during construction, if the application were to be granted permission.

- 6.4.2 The **EHO** returned comments with regard to noise requiring that “...construction work and demolition 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”.
- 6.4.3 Whilst the application site is located in a predominantly commercial area with industry surrounding the immediate site boundaries it is noted there are residential properties in close proximity to the application site (being those located on Whittington Hill) and therefore the recommended condition as set out by the EHO is considered to be reasonable to protect the amenity of these neighbouring occupants.
- 6.4.4 Similarly, the EHO commented that “*all demolition work shall be carried out in a manner that does not give rise to unnecessary airborne dust.*” The EHO indicated that this information shall be added as an advisory note to the decision notice, should planning be granted. This is not considered to be sufficient however – especially having regard to the neighbouring residential properties. It is therefore considered necessary for the LPA to impose a condition that reads as follows; “Measures to minimise airborne dust arising from the site shall be in place throughout the construction period including demolition.” By imposing this requirement as a condition (rather than an advisory), the LPA will have opportunity to control this element of the proposal and ensure the impact is acceptable when having regard to the health and amenity of the neighbouring residential properties as well as the health of the workers of neighbouring sites. An advisory would not be controllable by the LPA.
- 6.4.5 It is therefore considered, subject to the development complying with the above recommended planning conditions, the proposal will comply with the requirements set out in Local Plan policy CLP14.

6.5 Highway Safety

- 6.5.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.
- 6.5.2 To understand the impacts of the proposed development on highway safety and parking matters, the LHA were consulted with and the comments received are detailed below;

“The submitted details propose a development comprising demolition of 7no existing buildings and erection of 12no B1/B2/B8 units served via an existing ‘main’ vehicular access with Whittington Way and a secondary access directly available with Station Road. It’s stated that tenants of the proposed buildings will not be permitted use of the latter access.

It’s noted that there would be a significant reduction in overall Gross Floor Area as a result of the proposals although it’s noted that the existing buildings are ‘largely dilapidated’. In view of the latter, does the Local Planning Authority consider the site to have an extant use for the full existing GFA as stated?

On the basis that the development proposals will result in an overall reduction in extant GFA, it’s considered that vehicle trips generated by the site would be likely to be no greater than those that may be generated by the extant use of the site and, as such, it’s unlikely that any objections on the Grounds of intensification in vehicular activity could be sustained.

However, streetview images dated July 2018 show exit visibility from the site access with Whittington Way as being impeded by vegetation on the site boundary and it’s recommended that all areas in advance of exit visibility sightlines of 2.4m x 25m are maintained clear of any obstruction greater than 1.0m in height (600mm in the case of vegetation) relative to the nearside carriageway channel level.

Should it be determined that there is no, or less, extant B2/B8 use of the site, details should be submitted demonstrating that the layout of the access with Whittington Way meets current design recommendations together with details of measures to prevent vehicular use of the access with Station Road.

I trust that you will ensure that the proposed level of off-street parking provision satisfactorily meets the requirements of your own Authority’s standards to serve both existing and proposed development, each space being clear of sufficient manoeuvring space to enable the largest vehicles likely to frequently visit the site to enter and exit in a forward gear.

Therefore, if you are minded to approve the proposals on the basis of there being an overall reduction in extant use of the site, it’s recommended that the following Conditions are included within the Consent:-

1. *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. *Prior to any part of the development, the subject of the application, being brought into use, the existing access to Whittington Way shall be modified to be provided with 2.4m x 25m exit visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.*
3. *The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the approved application drawings for the parking/ loading and unloading/ manoeuvring of visitors/ staff/ customers/ service and delivery vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.*
4. *No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.*

In addition, the following Advisory Note may be included for the information of the applicant:-

a. Car parking spaces should measure 2.4m x 5.5m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.”

- 6.5.3 The comments received from the LHA are noted however it is to be acknowledged that the LHA query the use of the site and if the identified use is extant. It is considered that the industrial use of the buildings on site as existing is surviving given the current uses that were evident and in use at the time of the case officer's site visit. The fact that reference is

made to dilapidated buildings, as referred to in the application site, is a statement about their condition rather than the use.

- 6.5.4 The LHA consider the proposed development is unlikely to result in the increase of vehicle trips generated at the application site and therefore intensification of use is not considered to be a reason that the LHA would be able to sustain if it were to object to the proposal. Notwithstanding this, the LHA consider the access from Whittington Way to be an access to / from the site that is impeded by vegetation on the site boundary. The recommendation from the LHA that *“all areas in advance of exit visibility sightlines of 2.4m x 25m are maintained clear of any obstruction greater than 1.0m in height (600mm in the case of vegetation) relative to the nearside carriageway channel level.”*

This is considered to be an acceptable recommendation and therefore, subject to a positive recommendation, the above can be imposed as a planning condition. Although it is noted in the Design and Access statement that the site is to be accessed primarily by Whittington Way and the secondary access from Station Road will not be included as a right of way for new tenants of the application site. This is noted and considered to be reasonable however for the purposes of highway safety, it is considered appropriate to impose the condition as recommended by the LHA.

- 6.5.5 Each unit will be allocated 3no. parking bays (one of which will be allocated as a disabled bay) and a total of 22no. shared visitor parking spaces will be marked within the application site. A total of 58no. spaces will therefore be provided at the application site. Each space will measure a minimum of 2.4 x 4.8 metres and this is considered to be acceptable in accordance with the requirements set out in the adopted SPD. The disabled bays are noted to be larger in size, having measurements of 3.6 metres x 6 metres. This is considered to be acceptable.

- 6.5.6 In respect of air quality, the **EHO** comments that *“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.”* The comments in respect of electric vehicle charging points are noted and considered to be appropriate given the targets set by the government and to assist this LPA deliver on its Climate Change Emergency declaration. It is noted the Design and Access Statement that each unit is detailed to have electric vehicle charging point

and therefore it is considered this condition will be welcomed by the applicant.

6.5.7 It is noted that the LHA have requested a condition be imposed which requires no part of the development to be occupied until details of the arrangements for storage of bins and the collection of waste have been submitted to and approved by the LPA. This condition is considered to be unreasonable given the site is already in operation and therefore it is understood the site (be that individual tenants of units or as a whole), has waste collection arrangements in place. This application does result in an intensification in the number of units on the site however owing to the improved manoeuvrability of the site, it is not considered waste collection is a concern in this application. In addition, it is considered most units will hire a private contractor owing to the business nature of the site and agreement will need to be arranged with the waste collector. This condition as recommended should not therefore be imposed on any decision granted.

6.5.7 On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.6 Biodiversity including trees and landscaping

6.6.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.6.2 The application site was referred to **Derbyshire Wildlife Trust** for comment as a result of the extensive wooded / scrub land to the north of the application site and as well as the nature of works that were due to take place. It was noted by the case officer during a site visit that due to the age and condition of some of the units, it could be possible that protected species (such as bats) would be present at the application site. The initial comments received from DWT on 03/11/20 indicated that there were “*no significant habitats or nature conservation designations on the site, the demolition of 7 buildings could impact on protected species.*” At the time of comment, the application had not been accompanied by an

ecological assessment and therefore DWT commented further indicating that *“there is insufficient information on the nature of the buildings to know whether or not they could have potential to support bat roosts and as such, the proposal could result in the loss of bat roosts and in the killing and injuring or any individual bats that are present at the time of the works.”*

The DWT therefore requested the submission of a preliminary bat roost assessment and a check for nesting birds is undertaken, as a minimum, to determine the buildings suitability to support roosting bats and nesting birds and to search for evidence of roosting bats and nesting birds.

6.6.3 An Ecological Survey was received by this LPA on 21/01/2021 in addition to a Biodiversity Net Gain Initial Assessment. DWT were consulted with again in response to this information provided and commented that the report, undertaken by Ecus Ltd., recommended further bat surveys. *“The report for this assessment has not been made available however as nocturnal surveys are required, these should be undertaken and a final report submitted for review.”* In response to the submitted Biodiversity Net Gain Assessment, also prepared by Ecus Ltd and dated December 2020, DWT remarked that *“it appears possible to secure a net gain of at least 10% through the incorporation of onsite landscaping. However we have the following comments which should be addressed:*

- *a copy of the metric should be made available so that we can review the assessment fully. Whilst a good summary has been provided in the report, some details are missing including full details of the existing habitats including their composition and condition.*
- *The proposal comprises the incorporation of introduced shrub planting to offset the loss of woodland and scrub. We are concerned that this may represent down-trading in terms of habitat value, which would be avoided as per the guidance for BNG assessment (CIRIA C776A, 2019). The principles of BNG specify that proposals should demonstrate net gain of the same habitat to be lost or of habitat that is of equal or higher biodiversity value than that to be lost. Providing the metric would help assess this further.*
- *It looks possible to retain some of the woodland on the western boundary but it is not clear if this has been included in the metric.”*

6.6.4 Further information was provided by the applicant (on 06/07/2021) and DWT commented (on 03/08/2021) in response to this that the further submission *“addresses our comments regarding the assessment in our letter dated 10th March 2021. The current proposals, which do not include the retention of existing woodland or any new landscaping, will result in a*

net loss of 0.51 biodiversity units. However it is quite feasible to achieve at least a 10% net gain with new planting alone or a combination of new planting and retention of existing woodland. We recommend that Option 3, as detailed in the report, is chosen as this includes retention of existing habitat and therefore reduces overall impacts and time for new planting to establish. However all options outlines will arguably achieve net biodiversity gain. The chosen option should be reflected in the final layout to be approved.”

- 6.6.5 A further Nocturnal Bat Survey Report was provided on 29/09/2021. DWT provided comments to this on 29/11/2011 in which they commented that the report “*now provides sufficient information to determine the application. A day roost of a single common pipistrelle bat has been recorded in Building 4 and therefore a licence will be required to enable demolition of this building. The rest of the buildings can be demolished without any further survey or licensing. We advise the following conditions are attached to any permission:*

Bat Mitigation and Licensing

The demolition of Building 4 shall not take place until either a European Protected Species Licence has been obtained from Natural England or the site has been registered under a bat mitigation class licence (low impact). Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Nocturnal Bat Survey Report (Ecus Ltd. 2021) and amended as necessary based on any comments from Natural England. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence / confirmation of registration will be submitted to the LPA once granted.

Enhancement

Prior to building works commencing above foundation level, a bat and bird box plan shall be submitted to and approved in writing by the LPA to maximise site biodiversity. This shall include the bat boxes as recommended in Section 4.3.7 of the Nocturnal Bat Survey Report (Ecus Ltd., 2021), along with a range of suitable bird boxes for the site. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition.

N.B. We have previously provided comments regarding Biodiversity Net Gain assessment of the site and these should also be considered when determining the application. Our most recent advice provided on 03/08/2021 was as follows: We recommend that option 3, as detailed in the report, is chosen as this includes retention of existing habitat and therefore reduces the overall impacts and time for new planting to establish. However all options outlined will arguably achieve net biodiversity gain. The chosen option should be reflected in the final layout to be approved.”

- 6.6.6 Following receipt of the above comments, the applicant was requested to provide a revised site layout plan that was reflective of the proposed biodiversity net gain scheme to be implemented, in addition to the proposed phasing details being provided. A proposed phasing plan and site layout plan, including details of the biodiversity net gain option to be implemented was received by this LPA on 06/07/2022. The plan indicates that option 3 is reflected in the landscaping shown.
- 6.6.7 The suggested conditions from DWT are considered to be acceptable and reasonable given the information that has been provided by the applicant and what information is considered to remain outstanding in respect of enhancement measures. It is noted the site has evidence of roosting bats and therefore a licence must be applied for prior to demolition of the relevant building. Given the protected nature of bats, DWT have required the applicant to submit a copy of the relevant licence to the LPA to confirm compliance with this condition. This is also considered to be reasonable given the need for the LPA to have regard to the protected species on site. Conditions will be imposed as recommended therefore.
- 6.6.8 The Council’s **Tree Officer** was also consulted with in respect of this application; the following comments were received on 20/10/2021:

“Further my comments of the 5th & 29th October 2021 and the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021. The assessment provides 3 options for landscaping on the site which would all provide a net gain in biodiversity with options 1 & 2 gaining the most, however option 3 is preferred as it is stated that the site may be subject to further development in the future and the new landscaping for options 1 & 2 would have to be removed at a later date.

I am therefore in agreement with Derbyshire Wildlife Trusts comments of the 3rd August 2021 and ‘the chosen option should be reflected in the final

layout to be approved'. A landscaping condition should therefore be attached if consent is granted to the application.

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with and reflect the soft landscaping Option 3 in the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021 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 vegetation to be retained and 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 (unless the Local Planning Authority gives its written consent to any variation).

Reason: 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."

6.6.8 The comments received from the Tree Officer are noted and having regard to the comments made in respect of the submitted Biodiversity Metric 2.0 Option 3, the metric notes that the woodland and forest and heathland and shrub habitats as existing are poor and therefore a higher distinctiveness of habitat is required to make an improvement. Given the metric (for option 3) suggests to include additional young trees to be planted (as well as introducing shrub) at the application site, it is considered reasonable to condition information regarding what species and size of shrub and trees, as well as numbers, will be planted at the application site in accordance

with Option 3 of the Net Gain Biodiversity Enhancement scheme. It is therefore considered a landscaping plan and schedule shall be submitted in respect of the application site, prior to the site being taken in to first occupation. This time scale is considered to be appropriate given an enhancement scheme has been agreed and the details to be provided will supplement this agreed enhancement scheme.

6.6.9 On the basis of the comments above, and subject to the development complying with the recommended conditions, the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

6.7 Ground conditions and contamination including air quality

6.7.1 Having regard to the provisions of Local Plan policy CLP14, the LPA is required to have regard to the quality of the environment at all levels of the planning and development process. The **Coal Authority** and **Environmental Health Officer** were therefore consulted with in respect of ground stability and land contamination respectively. The comments received from the **Coal Authority** are detailed below;

6.7.2 *“As you are aware, the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that underground coal mining has taken place beneath the site at shallow depth. In addition, the site lies in an area where historic unrecorded shallow coal mining is likely to have taken place.*

You will recall that the Coal Authority previously objected to the proposal in our initial consultation response of 25 September 2020 due to the lack of a Coal Mining Risk Assessment Report, or an equivalent report, to identify and assess the risks posed to the proposed development by coal mining legacy.

We are therefore pleased to note that the applicant has now submitted a Phase I Geotechnical and Geo-Environmental Site Investigation report (17 August 2020, prepared by Eastwood & Partners) in support of their planning application.

Based on a review of relevant sources of coal mining and geological information, the submitted report correctly identifies that the Deep Soft Coal seam has been worked at shallow beneath the site and that unrecorded shallow mine workings may also be present within the Chavery

Coal. It considers that these workings could pose a stability risk to the proposed development.

Accordingly, the report goes on to make appropriate recommendations for the carrying out of intrusive ground investigations, in the form of boreholes, in order to establish the depth and condition of shallow coal seams/workings and to inform any necessary remedial measures to ensure the stability of the development (drilling and grouting).

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 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 applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings.

The report identifies that mine gases pose a potential risk to the development and recommends that gas monitoring is carried out. The Coal Authority recommends that the LPA seek comments from the Council's Environmental Health / Public Protection Team on this matter and any resultant need for the incorporation of gas protection measures within the proposed development.

The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Phase I Geotechnical and Geo-Environmental Site Investigation report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, we recommend that the following conditions are included on the Decision Notice:

1. No development shall commence (excluding the demolition of existing structures) until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

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

*The Coal Authority therefore **withdraws its objection** to the proposed development **subject to the imposition of the above conditions**. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.*

6.7.3 On the basis of the comments received from the Coal Authority, it is considered appropriate to impose the above worded planning conditions as recommended. It is considered appropriate to note that the Coal Authority were consulted prior to the application being accompanied by a Coal Mining Risk Assessment, hence the reason the Coal Authority refer to previous correspondence in their response.

6.7.4 With regard to land contamination, the **Environmental Health Officer** commented the following;

“The site is located in an area of Chesterfield that could be affected by land contamination. Should planning permission be granted for this proposal, I would strongly recommend that the developer ensure the site is ‘suitable for use’ by completion of:-

a) a Phase 1/desk study

- b) a Phase 2/intrusive site investigation
- c) a Remediation Strategy (if necessary) and
- d) a Validation report

All the reports a) to d) shall be submitted to the Council and approved in writing by the Local Planning Authority prior to the development commencing.”

6.7.5 Given the history of the application site, the recommended condition is considered to be appropriate to impose on any decision granted. Furthermore, following the comments received from the Coal Authority in respect of the potential mines gases that were identified in the Geotechnical and Geo-Environmental Site Investigation report, the **EHO** was consulted with again. The EHO comments (in correspondence dated 09/07/2021) indicate an agreement with the submitted report and the need for follow-up intrusive site investigations to be carried out. The site investigations will addressed through the submission of a phase 2 / intrusive site investigation report, which is required through the recommended condition as set out by the EHO earlier in the consultation process. It is considered the Geotechnical and Geo-Environmental Site Investigation report addresses part a) of the recommended condition set out by the EHO and this will therefore be reflected in any decision issued.

6.8 Flooding and drainage

6.8.1 Local Plan policy CLP13 requires that flood risk is managed for all development and will be commensurate with the scale and impact of the proposed development. Developments will be required to be made safe for their lifetime without increasing flood risk elsewhere.

6.8.2 As such, the application was referred to the Council’s internal **Design Services** department, **Yorkshire Water Services**, the **Lead Local Flood Authority** and **The Environment Agency**. This is due to the application site being located within flood risk zone 2 and 3. As noted in the comments from the **Strategic Planning Officer**, the submission of a sequential flood assessment is not required “*as the proposed uses are within those allocated for the site in the development plan (NPPF para 162 “Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again”).*” The application was therefore continued without a Sequential Flood Assessment.

- 6.8.3 Having accepted that the application site was sequentially acceptable, despite the Flood Risk following recent adoption of the Local Plan, the application was continued without a sequential assessment.
- 6.8.4 Initially, the **Environment Agency** objected to the scheme proposed due to the Flood Risk Assessment not complying with the requirements for site specific flood risk assessments. The EA noted the reasons for this objection and how the applicant could overcome the objection. The Council's **Design Services (Drainage)** department also their agreement with the response received from the EA, as well as noting that should the applicant determine to discharge surface water runoff to the public sewer system at a reduced rate from the existing run off, the Design Services team would need evidence to ensure that no flooding occurs on site during a 1 in a 100 year + 40% climate change rainfall event, prior to full approval. The **Lead Local Flood Authority** also objected due to the lack of information provided in the application to indicate how the site would drain and what consideration has been given to the space required on site for surface water storage. **Yorkshire Water Services** however returned comments that indicated should planning permission be granted, conditions as recommended by them should be imposed on any decision granted.
- 6.8.5 In response to the comments received above, a second Flood Risk Assessment (FRA) was submitted on 12/03/2021. This did not address the concerns raised by the consultees however and a further FRA was submitted on 04/10/2021. This was submitted to the above referenced consultees and the following comments were received;
- Design Services (19/10/21):**
“Prior to full approval being granted we would like to see drainage proposals for the site along with accompanying calculations in accordance with our flood and surface water management guidance. I would be satisfied with the drainage proposals to be conditioned in the decision.”
- Yorkshire Water Services (21/10/21):**
*“The submitted updated FRA prepared by Eastwood and Partners requires additional information in regards to the proposed surface water drainage strategy for the site. A CCTV/topographical survey is still required to prove any existing surface water points of connection from the site to either a sewer or watercourse.
In addition to the above, the land drain to the north of the site has not been mentioned within the report. Said drain could prove to be a viable (and*

more sustainable) point of connection for the re-developed site's surface water rather than the public sewer network.

Until the above points have been clarified, our stance on this matter remains the same. We refer to our previous comments and recommended conditions in our letter dated 8 October 2020.”

Lead Local Flood Authority (17/11/2021):

“Derbyshire County Council as the LLFA has reviewed the revised FRA (Issue 3 dated 1st October 2021) and information submitted for this application, which was received on 06/10/2021. Prior to conditioning this planning application, the LLFA requires a drainage proposal with the following information to be submitted:

- Site plan and impermeable area*
- Appropriate evidence to support how the site will drain, including confirmation of where the surface water will outfall to (photographs / maps / a confirmation letter from a water company)*
- Storage estimates to show the required storage volume of surface water on site and an indication of the likely location*
- Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep (Refer to Point J in the Advisory Notes)*
- Basic ground investigation (desktop survey as a minimum)*
- Major development should incorporate sustainable drainage system unless there is clear evidence that this would be inappropriate (as per National Planning Policy Framework 165).*

The details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.

Please note the level of detail submitted should be proportionate to the size and scale of the development.”

Environment Agency (13/01/2022):

“We have reviewed the amended Flood Risk Assessment and consider that it satisfactorily addresses our earlier concerns. Subject to the condition below, we therefore withdraw our previous objection, dated 5 August 2021. The proposed development will only meet the NPPF requirements in relation to Flood Risk if the following planning condition is included.

Condition

The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref. 45173-001, dated 01 October 2021, by Eastwood & Partners) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than existing ground floor levels*
- The development shall include flood resilient and resistant construction as detailed in the flood risk assessment.*

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.

Please note that, due to the large reduction in building footprint, we have accepted that flood compensatory storage is not required for this development.

Reason – To reduce the risk of flooding to the proposed development and future occupants.”

- 6.8.6 To address the outstanding matters raised by the LLFA, the applicant submitted a further drainage assessment document (received on 05/07/2022). The document was referred to the Design Services team, YWS, the LLFA, and the EA for comments. The following responses were received:

Design Services (21/07/22):

“No additional comments to those made by the LLFA, YWS and the Environment Agency.”

Yorkshire Water Services (19/07/22):

“If planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure:

- 1. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed .
(In the interest of satisfactory and sustainable drainage)*
- 2. Surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, prior to any discharge to an existing or prospectively adoptable sewer.*

(To prevent pollution of the aquatic environment and protect the public sewer network)

3. *The development shall be carried out in strict accordance with the details indicated within the submitted report, "Drainage Assessment prepared by Eastwood & Partners, dated 30 June 2022".
(In the interest of satisfactory and sustainable drainage)"*

Lead Local Flood Authority (29/07/2022):

"The LLFA has no objection subject to the conditions below.

To ensure adherence to the NPPF, DEFRA's Non-Statutory technical standards for sustainable drainage systems and local guidance, these recommended conditions should not be altered without consulting the County Council Flood Risk Management team.

1. *"No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
 - a. *Flood Risk Assessment Ref No: 45173-001, Issue No: 3, Dated: 01 October 2021, completed by Eastwood & Partners Consulting Engineers. Drainage Assessment Ref No: 45173, Issue No:1, Dated: 30 June 2022, completed by Eastwood & Partners Consulting Engineers "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"*
 - b. *And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority."**

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

2. *"Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any*

works, which would lead to increased surface water run-off from site during the construction phase.”

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

3. “Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

Site specific comments

Applicant needs to apply to Environment Agency for consent to discharge into Ridding Brook”

The comments received from the LLFA continue with advisory / informative notes which the LLFA comment that the information detailed in the notes will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA.

Environment Agency (26/07/2022):

The Environment Agency indicated (following the case officer containing the EA directly) that the EA has no comments to make and no response is therefore to be provided to the LPA. No further comments are to be made to add to those contained within the letter dated 13/01/2022.

6.8.7 Having regard to the comments made by the LLFA, the advisory / informative notes can be added to any decision granted. It is the applicant’s responsibility to ensure the advisory notes are complied with when developing the site. The conditions recommended in the comments from the EA on 13/01/2022 (noted above in Section 6.8.5) are considered to be reasonable for the scale of the development and it is noted in the comments that the overall reduction in built footprint has led the EA to conclude that compensatory storage is not required for this development.

6.8.8 Having regard to the comments received from the above consultees, it is now considered the proposed development will, subject to complying with the conditions to be imposed on any positive decision, satisfactorily demonstrate compliance with Local Plan policy CLP13 and the wider NPPF.

6.9 Network Rail

6.9.1 The application site is bound by the railway line that connects Chesterfield to Sheffield along the south west boundary of the application site. As such, Network Rail were consulted with to understand if any concerns were raised by them in respect of the development proposed. Network Rail responded to the consultation on 29/09/2020 with the following comments:

“With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met,

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

- 1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.*
- 2. All surface water run off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.*

It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail’s property, must at all times be carried out in a “fail safe” manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

Fencing

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not

be removed or damaged. We note from the detail provided that the proposals include 2.4m palisade fencing which would meet this requirement.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Please note we will be unable to agree to discharge of a method statement condition without direct discussion and agreement with our Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). We would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. Contact details for Asset Protection are below.

OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Demolition

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

Cranes

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorn (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebrina"

Not Acceptable:

Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

A comprehensive list of permitted tree species is available upon request.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

I would advise that in particular the drainage, Armco barriers, method statements/OPE, lighting and landscaping should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

I trust full cognisance will be taken in respect of these comments. If you have any further queries or require clarification of any aspects, please do not hesitate to contact myself I would also be grateful if you could inform me of the outcome of this application, forwarding a copy of the Decision Notice to me in due course.

The method statement will need to be agreed with the Asset Protection Project Manager

]

6.9.2 The comments received from Network Rail are noted and are considered to be reasonable to enable the safeguarding of the railway line to be achieved. It is noted that Network Rail comment that all drainage of the site shall be collected and directed away from Network Rail property and infrastructure. Having reviewed the submitted Flood Risk Assessment and Drainage Assessment, the Case Officer understands that no water will be drained towards the south west of the application site. It is noted the Drainage Assessment indicates that there may be opportunity / need to drain the site in to Riding Brook if no existing drainage is established at the application site. Riding Brook is located to the south / south east of the application site and is therefore away from the railway line infrastructure. It is also noted that Network Rail require surface water run off and sewage effluent to be handled in accordance with the Local Council and Water Company regulations. This is the case and this report has detailed the information provided from the applicant to accord with these standards. It is considered reasonable to reiterate through a condition however that there shall be no increase to average or peak flows of surface water run off leading towards Network Rail assets as it is noted in the comments from the LLFA the need for details regarding how additional surface water run off from the site will be avoided during the construction phase to be submitted to this LPA.

6.9.3 The applicant will need to have regard to the identified acceptable species of plants when submitting a landscaping scheme for approval. Network Rail will also be consulted on any information provided to ensure the

scheme proposed complies with the requirements as set by them with regards to safeguarding the rail lines.

- 6.9.4 The comments received from Network Rail indicate that any lighting (to be adjacent to the railway) not already indicated on the application may have potential to dazzle train drivers, or cause confusion if inappropriate in its siting or colour. It is therefore considered appropriate to condition any additional lighting at the application site to ensure Network Rail has opportunity to review any lighting proposed that is not detailed within this application.
- 6.9.5 Having regard to the above, and the recommended conditions set out by Network Rail, it is considered the proposed development will comply with Local Plan policy CLP14 (A Health Environment) and CLP20 (Design) subject to compliance with the conditions to be imposed on any decision granted.

7.0 REPRESENTATIONS

- 7.1 The standard period of consultation has been carried out for this application and 3no. representations have been received from a local resident as a result. The representations have been received from the same persons and are summarised as detailed below;
- Querying the use of the application site – See *Section 6.1*
 - Potential harm of the uses encapsulated at the application site – See *Section 6.1*
 - Environmental impacts arising as a result of the proposal – See *Sections 6.1 – 6.8*
 - Impact of heavy traffic and good vehicles moving to and from the site – See *Section 6.5*
 - Concerns for development of the wider area – not a material planning consideration in this application.
- 7.2 The above concerns were raised in the initial representation received from the local resident and have been considered to be addressed in this report and discussion can be found in the sections marked next to each concern raised.
- 7.3 The remaining two representations received were noted to not be in relation to the proposal within the red line boundary relating to this application. The comments received raised concern for “preparation of land

and creation of a vehicular ingress” on land “that runs parallel to Holland Road”. Having regard to the current presentation of the application site, it is noted the application site has established vehicle access points and is not sited on the land that runs parallel to Holland Road. It is understood the comments related to the former Wagon Works site where no planning application has been submitted. The comments have been passed to the Enforcement Team to follow up for further investigation.

7.4 It is considered the matters raised in the representation that relates to this application site have been addressed in the report and due regard have been given to the matters.

8.0 HUMAN RIGHTS ACT 1998

8.1 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

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council’s Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2019 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with ‘up-to-date’ policies of the Local Plan, it is considered to be ‘sustainable development’ to which the presumption in favour of the development applies.

9.2 The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the

applicant with regard to the flood risk assessment and drainage strategy at the application site in order to achieve a positive outcome for the application.

10.0 CONCLUSION

- 10.1 Overall the proposal is considered to be acceptable in accordance with the above identified policies of the Local Plan. The application site is noted to have been developed since the mid-1960s and as a result, units within the site are aged and do not function to modern standards as well as being no longer fit for purpose. The proposed development therefore seeks to increase the number of units at the site whilst reducing the overall developed footprint of the site. The proposal will also result in an improvement to the drainage of the application site and enhancement measures to the biodiversity value of the application site.
- 10.2 It is considered the development proposed complies with the necessary policies and conditions have been used where appropriate to ensure compliance through the phased development of the site and during the lifetime of the development.

11.0 RECOMMENDATION

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

11.2 Conditions

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

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

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Site layout / Block plan / BDNG – Drawing no. 002 Revision C – 1:500

- Proposed units 3 – 8 (Block B) Elevations and GA – Drawing no.004 – Scale 1:200
- Proposed 9 – 12 (Block C) Elevations and GA – Drawing no.005 – Scale 1:100
- Proposed 1 – 2 (Block A) Elevations and GA – Drawing no.003 – Scale 1:100
- Phasing Plan – Drawing no. 008 – 1:500
- Document: Flood Risk Assessment – Report no. 45173-001 – dated 01/10/2021 – Prepared by Eastwood and Partners for Walker Wood Ltd
- Document: Drainage Assessment – Report no. 45233-003 – dated 30/06/2022 – Prepared by Eastwood and Partners for Walker Wood Ltd
- Document: Biodiversity Net Gain Initial Assessment for W H Butler & Sons Founders Ltd – prepared by Ecus Ltd – dated June 2021
- Document: Nocturnal Bat Survey Report, Station Road, Chesterfield for W H Butler & Sons (Founders) Ltd – prepared by Ecus Ltd – dated September 2021
- Document: Further Ecology Surveys (Bats and Birds) – referenced 16254 – dated 07/02/2021 – prepared by Ecus Ltd for Walker Wood Ltd on behalf of W H Butler & Sons (Founders) Ltd
- Document: Phase 1 Geotechnical & Geo-Environmental Site investigation, Whittington Way, Chesterfield – Issue 1 – reference 45173-002 – dated 17/08/2020 – prepared by Eastwood and Partners for Arrow Butler Casting Ltd

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. No development shall commence in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), (excluding the demolition of existing structures) until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

Reason – This condition is imposed in order to enable appropriate investigation, remedial and mitigatory measures to be identified and carried out before building works commence on site. This condition is also in accordance with CLP14 and the NPPF.

4. In accordance with the phasing plan submitted, (Phasing Plan – Drawing no. 008 – 1:500), prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason - This condition is imposed to enable appropriate investigation, remedial and mitigatory measures to be identified and carried out before building works commence on site. This condition is also in accordance with CLP14 and the NPPF.

5. With the exception of demolition of existing structures where appropriate and in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), no works shall commence until:
 - a) detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
 - b) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
 - c) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;
 - d) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';

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

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

6. The demolition of Building 4 shall not take place until either a European Protected Species Licence has been obtained from Natural England or the site has been registered under a bat mitigation class licence (low impact). Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Nocturnal Bat Survey Report (Ecus Ltd. 2021) and amended as necessary based on any comments from Natural England. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence / confirmation of registration will be submitted to the LPA once granted.

Reason – This condition is imposed to ensure the correct licence is obtained prior to the demolition of the building to safeguard the protected species at the application site and in accordance with CLP16 of the adopted Local Plan.

7. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. Flood Risk Assessment Ref No: 45173-001, Issue No: 3, Dated: 01 October 2021, completed by Eastwood & Partners Consulting Engineers. Drainage Assessment Ref No: 45173, Issue No:1, Dated: 30 June 2022, completed by Eastwood & Partners Consulting Engineers “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
 - b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted. The condition is also imposed in accordance with Local Plan policy CLP13.

8. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason – To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development. The condition is also imposed in accordance with Local Plan policy CLP13.

9. Prior to the first occupation of the development in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason – To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753. The condition is also in accordance with Local Plan policy CLP13.

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

Reason – In the interest of satisfactory and sustainable drainage and in accordance with adopted Local Plan policy CLP13.

11. Prior to any discharge to an existing or prospectively adoptable sewer, surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority. Only the agreed details shall be implemented and retained at the application site.

Reason – To prevent pollution of the aquatic environment and protect the public sewer network. This condition is also in accordance with CLP13.

12. The development shall be carried out in strict accordance with the details indicated within the submitted report, "Drainage Assessment prepared by Eastwood & Partners, dated 30 June 2022".

Reason – In the interest of satisfactory and sustainable drainage and in accordance with adopted Local Plan policy CLP13.

13. The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref. 45173-001, dated 01 October 2021, by Eastwood & Partners) and the following mitigation measures it details:
- Finished floor levels shall be set no lower than existing ground floor levels
 - The development shall include flood resilient and resistant construction as detailed in the flood risk assessment
- 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.

Reason – To reduce the risk of flooding to the proposed development and future occupants and in accordance with Local Plan CLP13.

14. There shall be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.

Reason – To ensure Network Rail assets are protected and in accordance with adopted Local Plan CLP13.

15. The individual units hereby permitted shall only be used for the purposes of General Industry or Storage and Distribution (as defined by use classes B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or for Light Industrial Processes or Research and Development of products.

Reason – To protect the vitality and viability of existing centres and support sustainable economic growth in accordance with paragraphs 85 and 86 of the National Planning Policy Framework and policies CLP6 and CLP9 of the Chesterfield Borough Local Plan 2018-2035.

16. Construction work and demolition 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 – This condition is imposed to safeguard the neighbouring residential amenity and in accordance with CLP14.

17. At all times during the demolition and construction phase, measures to minimise airborne dust arising from the site shall be in place throughout the construction period including demolition.

Reason – This condition is imposed to safeguard the neighbouring residential amenity and in accordance with CLP14.

18. Prior to building works commencing above foundation level, a bat and bird box plan shall be submitted to and approved in writing by the LPA to maximise site biodiversity. This shall include the bat boxes as recommended in Section 4.3.7 of the Nocturnal Bat Survey Report (Ecus Ltd., 2021), along with a range of suitable bird boxes for the site.

Reason – This condition is imposed to ensure the site delivers biodiversity net gain and is in accordance with adopted Local Plan policy CLP16.

19. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with and reflect the soft landscaping Option 3 in the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021 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 vegetation to be retained and 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.

Reason – 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. The condition is also in accordance with the requirement from Network Rail to approve the planting in proximity to the rail lines. The condition is therefore in accordance with adopted Local Plan policies CLP14 and CLP16.

20. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

Reason - 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. The condition is therefore in accordance with adopted Local Plan policy CLP16.

21. All lighting shall be designed so as not to cause glare / overspill of the site.

Reason – This condition is in accordance with Local Plan policy CLP14.

22. Where new external lighting is to be installed (in addition to the lighting detailed in the approved plans), details of the external lighting shall be provided to the Local Planning Authority for approval. Only the approved lighting shall be installed at the application site.

Reason – To ensure the lighting is acceptable and does not cause harm particularly for the neighbouring residents and Network Rail. This condition is also in accordance with Local Plan policy CLP14.

23. An Armco or similar barrier shall be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. At no time during demolition or construction shall Network Rail's existing fencing / wall must be removed or damaged. As a minimum, provision should be made at each turning area/roadway/car parking area adjacent to the railway.

Reason – This is in accordance with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways and is also in accordance with Local Plan policy CLP14.

24. The proposed 2.4 metre high palisade fencing as shown in the approved site layout plan shall be retained unless an alternative / replacement is otherwise agreed in writing with the Local Planning Authority.

Reason – To ensure the site is secure and to mitigate trespass on to Network Rail's property and in accordance with Local Plan policy CLP14.

25. Prior to any works commencing within 10 metres of the railway boundary, a method statement shall be submitted to Network Rail for approval. The method statement shall include details regarding the proposed method of construction, risk assessment in relation to the railway and a construction traffic management plan. Works shall then be carried out in strict accordance with the details agreed in the method statement.

Reason – To ensure the site is developed to a satisfactory standard for Network Rail and in accordance with Local Plan policy CLP14.

26. A minimum of 6no weeks prior to works commencing on site, the applicant is required to make direct contact with the Asset Protection Project Manager (OPE) at Network Rail. The OPE will require to see details in respect of method statements, drawings relating to excavation, drainage, demolition, lighting and building work, or any other works that may affect the safety, operation, integrity and access to the railway.

Reason – To ensure the site is developed to a satisfactory standard for Network Rail and in accordance with Local Plan policy CLP14.

27. Prior to the occupation of the units hereby approved, and in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), a minimum of 5no. Electric Vehicle Charging points shall be provided at the application site and shall be made available and maintained operational for the lifetime of the approved development.

Reason – In the interests of reducing emissions and in line with Policy CLP22 of the Adopted Local Plan 2020.

28. All surface water run-off and sewage effluent shall be handled in accordance with Local Council and Water Company regulations.

Reason – In the interest of satisfactory drainage and in accordance with Local Plan policy CLP13.

11.3 Informative Notes

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to the flood risk assessment and drainage strategy at the application site in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

3. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:
www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

4. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.

5. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
6. The applicant is notified of the need to apply to Environment Agency for consent to discharge into Ridding Brook.
7. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
 - on or within 16 metres of a sea defence
 - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
 - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environmentagency.gov.uk

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

8. The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings> It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up. Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

9. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-forflooding>. To get help during a flood, visit <https://www.gov.uk/help-during-flood>. For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.
10. A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
- F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
- G. The applicant should provide a flood evacuation plan which outlines:
- The flood warning procedure
 - A safe point of extraction
 - How users can safely evacuate the site upon receipt of a flood warning
 - The areas of responsibility for those participating in the plan
 - The procedures for implementing the plan
 - How users will be made aware of flood risk
 - How users will be made aware of flood resilience
 - Who will be responsible for the update of the flood evacuation plan

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1%

probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from

maximum seasonal

groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.

- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

11. All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.
12. All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by

Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

13. Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.
14. Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.
15. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.
16. With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.
17. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time

will any poles over-sail the railway and protective netting around such scaffold must be installed.

18. The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.



This page is intentionally left blank

ITEM 4**ERECTION OF A NEW CARE HOME FACILITY WITH SEPARATE DETACHED DAY UNITS AND CREATION OF NEW ACCESS AND AUXILIARY CAR PARKING AREAS (REVISED PLANS RECEIVED 24/05/2022 AND 21/07/2022) AT AVENUE VILLA, 12A AVENUE ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8TA FOR DIGNUS HEALTHCARE**

Local Plan: Unallocated, within the built up area defined by Policy CLP3

Ward: Dunston/Moor wards

1.0 CONSULTATIONS

Ward Members	No comments received.
Local Highways Authority	Comments received – see report
Design Services Drainage	Comments received – see report
The Coal Authority	Comments received – see report
Yorkshire Water	Comments received - Conditions requested - see report.
Derbyshire Constabulary	Comments received – see report
Derbyshire Wildlife Trust	Comments received – see report
Strategic Planning	Comment received – see report
Environmental Health	No objection, conditions recommended covering hours of construction/work, lighting, air quality

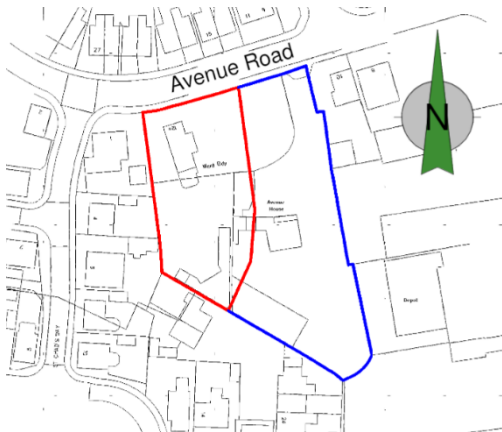
and electric vehicle charging, and land contamination.

Representations 2 representations received – see report

2.0 **THE SITE**

2.1 The site subject of this application is situated on the south side of Avenue Road, adjacent to the recent development at St Chad's Way and to the rear of commercial uses fronting on to Sheffield Road. To the north are residential properties fronting Avenue Road and the entrance to the Lidl, to the east are residential properties along Avenue Road and commercial units fronting Sheffield Road, to the south and west are properties on St Chad's Way.

2.2 The site is in a sustainable location in walking distance to a range of services in Whittington Moor District Centre (the application site abuts the District Centre boundary) which contains a range of Key Services and is also a main route for a range of high frequency public transport routes. Part of the Strategic Cycle network is also close by, adjacent to the A61. The application site is within the defined Built up Area as defined by Policy CLP3 of the Chesterfield Local Plan and is unallocated on the Chesterfield Borough Council adopted local plan policies map 2018-2035.



Extract of submitted location plan ©



Aerial photograph taken from Google maps ©

2.3 As can be shown from the site plan above, the owners of the site have split the whole site into two, with a separate application being progressed for the remainder of the plot (CHE/22/00034/OUT). The application site plot is broadly rectangular in shape covering

approximately 0.158 hectares in area (1580sqm). The prior use of the site was for residential with a number of residential buildings on site and onsite landscaping. As a result of anti-social behaviour issues, the buildings on site were demolished and the site is currently level. The landscaping shown on the Google earth image above has been removed.



Photo taken from within the site looking north to Avenue



Photo taken from within the site looking south

3.0 SITE HISTORY

- 3.1 CHE/1085/0642 – Permission for the erection of dwelling
CONDITIONAL PERMISSION (19/11/1985)
- 3.2 CHE/0690/0452 – Single storey extension to form multi gym bedroom sauna room and laundry room
CONDITIONAL PERMISSION (11/07/1990)
- 3.3 CHE/13/00453/FUL – Two storey extension
CONDITIONAL PERMISSION (12/09/2013)
- 3.4 CHE/22/00034/OUT – 3 storey residential block with associated parking and access
PENDING CONSIDERATION

4.0 THE PROPOSAL

- 4.1 The application proposes the erection of a detached care home facility (use class C2a) which will contain 8 no. residential units with associated common rooms, staff accommodation and storage, a

separate, detached unit containing a further 2 no. day units, a new vehicular access, associated parking and landscaping.

- 4.2 The planning statement submitted in support of the application provides further detail on the operation of Dignus Healthcare as an organisation and states as follows:

“Dignus Healthcare was founded in 2006 to provide Person-Centred Support services for individuals with differing and complex needs. Operating care homes throughout the Midlands we have built a reputable name for our services within the care community.

“We pride ourselves in offering diverse and responsive support enabling us to cater for individuals who may display behaviours that challenge, autism spectrum disorders, mental health problems, physical and sensory disabilities. Our aim is to create safe spaces for individuals, giving them the opportunities to grow at their own pace and become independent.

“We are fully regulated in the care and support we provided by the Care Quality Commission (CQC), with whom we are a registered provider.

- 4.3 The statement goes on to confirm the services provided, such as:
- Specialist care
 - Supported living
 - Community outreach

The statement confirms that the above services will be provided within the proposed development giving a *“greater level of independence for each occupant with some staff supervision. The management and supervision will be provided by on site staff numbering 10 full time and 2 part time who will work in varying shifts.”*

- 4.4 The revised plans (received 24 May 2022) for the main care home building propose self-contained accommodation units across two storeys, with the detached units being within a single storey building to the rear (south) of the site.

- 4.5 All of the accommodation units each contain a bedroom, lounge, store, kitchen, bedroom and bathroom/shower room. The day units

are shown to be wheelchair accessible. The main care home units are all 59sqm GIA and the detached day units are 52.74sqm GIA.

- 4.6 The main care home building is proposed as a contemporary building with the accommodation split across two wings joined together by a central atrium providing supporting facilities/stores. Each wing is distinguished by an asymmetrical high-pitched roof (11.3m) with a front-facing gable which recesses as the building steps towards the central atrium, which is flat-roofed.
- 4.7 The materials for the main care home building are shown as three different shades of render (white, mid grey and dark grey) to provide visual interest, with anthracite grey windows and door frames. Windows on the front and rear elevations are set within recessed panels to provide distinctiveness and to break up the design. The proposed roofing materials are grey roof tiles with the design featuring the installation of photovoltaic panels.

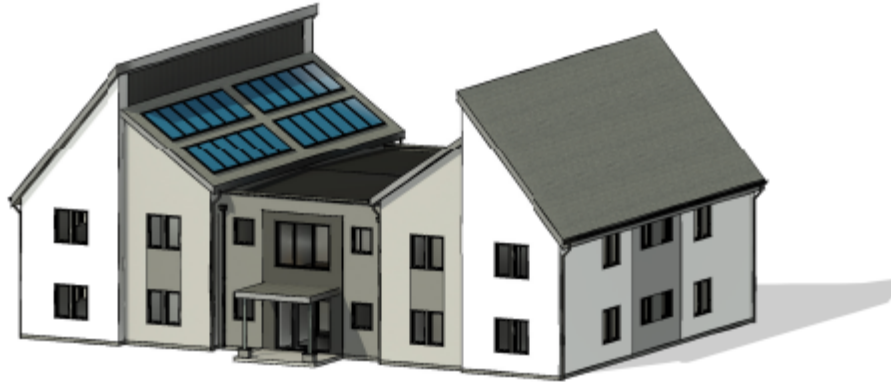




Proposed rear elevation ©



Proposed side elevations ©



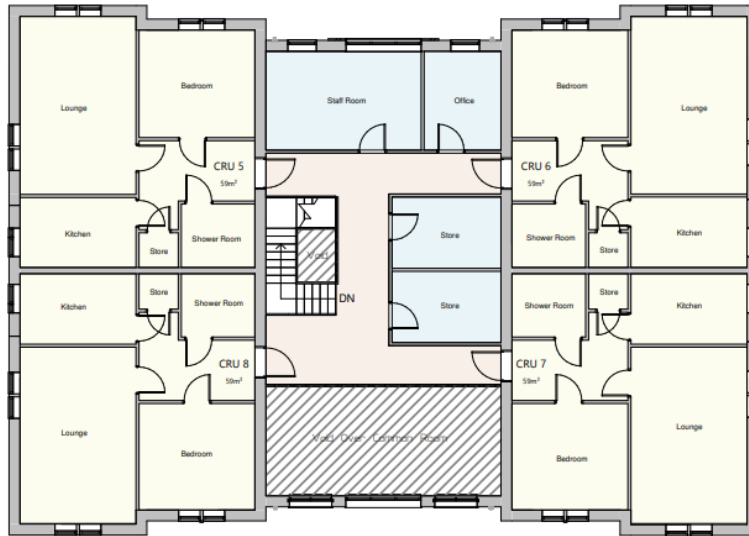
3d drawing ©

4.8 At ground floor level, a front entrance way with a projecting canopy is proposed to provide access to a secure lobby area, with a main office, plant room, visitor WC, store and a double height common room with external access to a terrace area being provided within the central atrium. Residential units are accessed from the central part of the building with a staircase provided to the first floor.

4.9 At first floor level additional staff accommodation, staff room, office and additional storage is provided with access to the residential units.

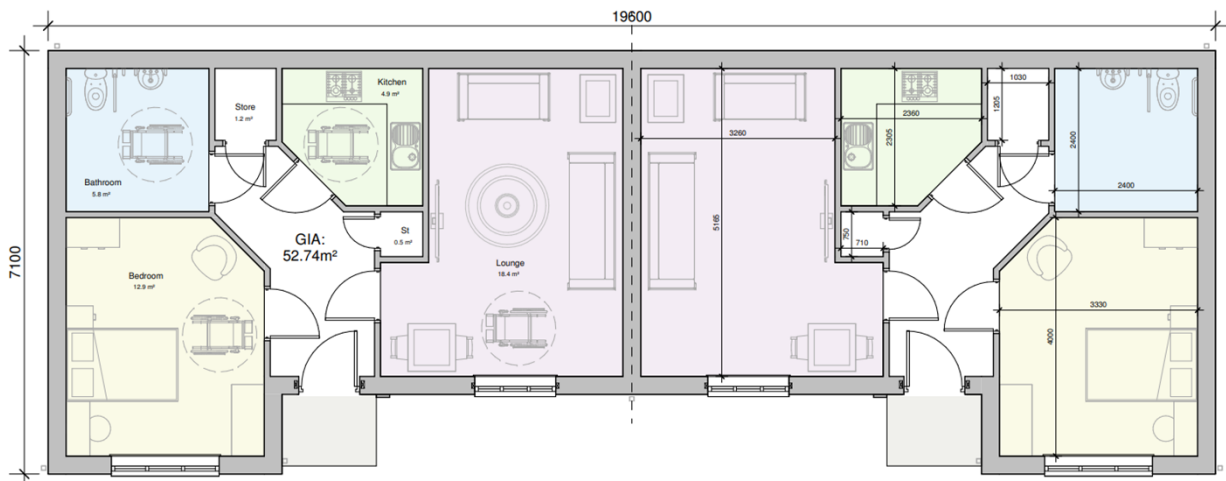


Proposed ground floor plan ©

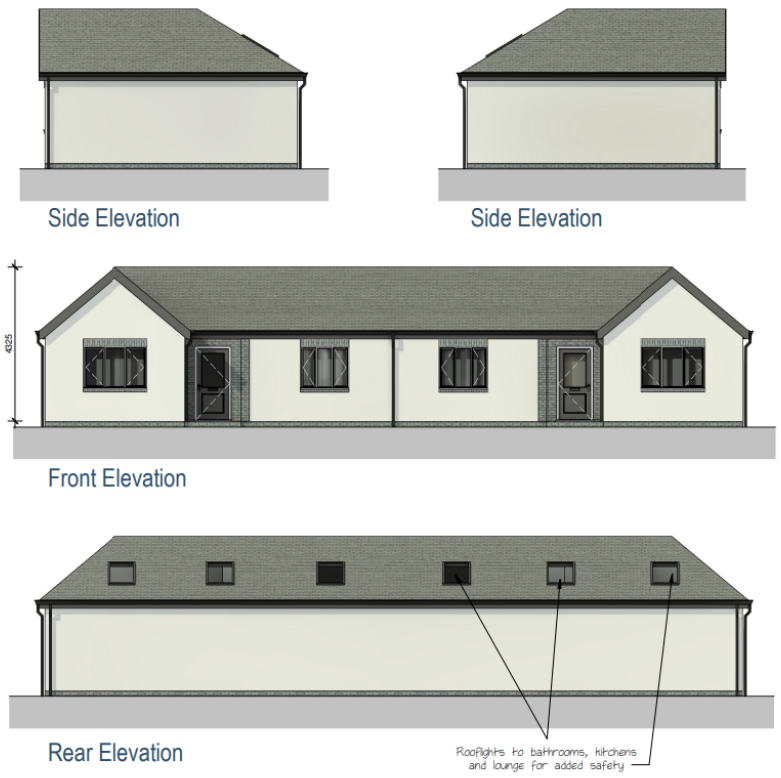


Proposed first floor plan ©

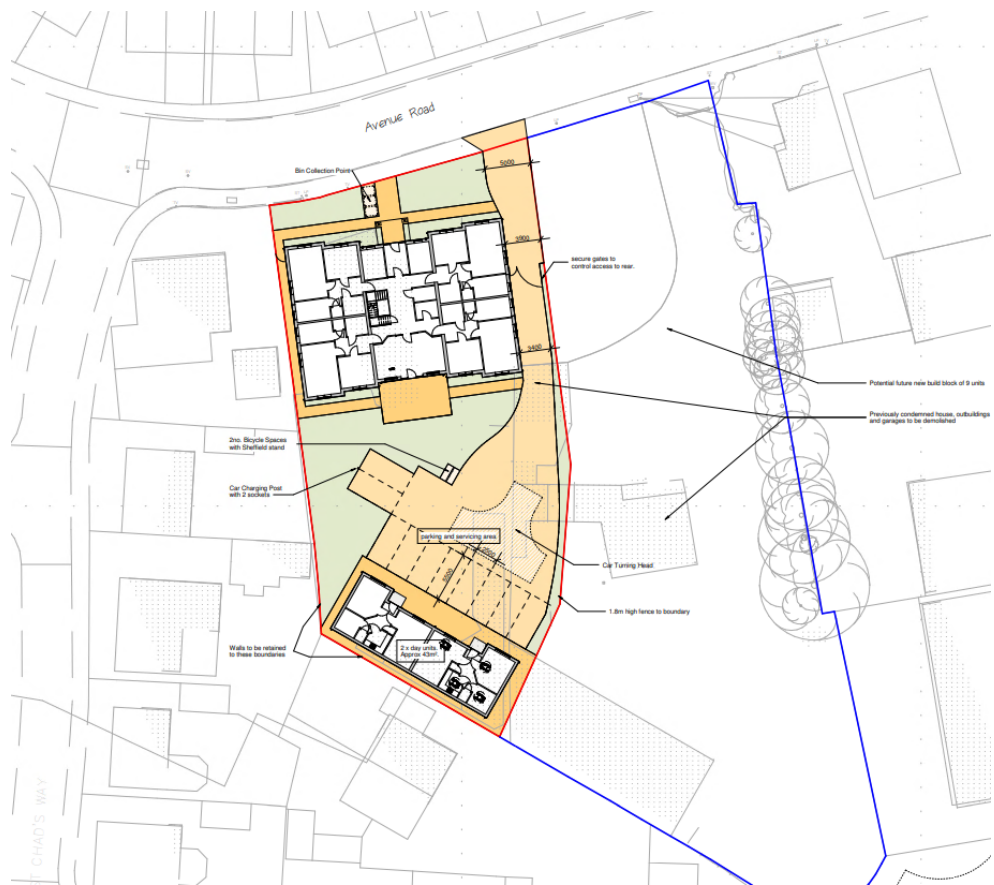
4.10 The detached day units are proposed as semi-detached bungalows with hip to gable roof and front facing gable at either side. The units will stand at 4.5m to ridge and 2.7m to eaves. The bock will be 19.6m wide and 7.1m deep. Each of the 2 units contains a lounge, kitchen, store, bathroom and bedroom.



Detached day units, proposed floor plans ©



Detached day units, proposed elevations ©



Site layout

- 4.11 The detached block is proposed to be finished in white render with white upvc window and door frames, anthrasite composite front doors, grey concrete roof tiles, and skylights to the south (rear) roof pitch to provide natural light. Engineering brick detailing and coursing is provided around windows and doors to provide visual interest.
- 4.12 The application is supported by the following documents:
- Planning statement which provides details on Dignus Healthcare and their client base
 - Phase 1 Ground Investigation which includes a Coal Mining Risk Assessment (4th April 2022)
 - Flood Risk Assessment which includes recommendations on drainage (1st April 2022)
 - Biodiversity Offset and Mitigation Assessment (Version 3) (17 August 2022)
 - Biodiversity Calculation

5.0 CONSIDERATIONS

5.1 Planning Policy

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

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 **National Planning Policy Framework**

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

5.4 **Principle of Development**

Relevant Policies

- 5.4.1 The application site is unallocated and is positioned within the built up area of Whittington Moor therefore policies CLP1 and CLP2 are of relevance.
- 5.4.2 Policy CLP1 states that *'The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas.'*
- 5.4.3 Policy CLP2 states that when *'Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:*
- a) deliver the council's Spatial Strategy (policy CLP1);*
 - b) are on previously developed land that is not of high environmental value;*
 - c) deliver wider regeneration and sustainability benefits to the area;*
 - d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;*
 - e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;*
 - f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;*
 - g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
 - h) are not on the best and most versatile agricultural land;'*

- 5.4.4 The principle of development is assessed through consideration of Local Plan Policies CLP1 and CLP2 (see extracts above).
- 5.4.5 The application site is previously developed land, within a settlement boundary, and sits adjacent to the boundary of the Whittington Moor District Centre, which provides a range of key services and good public transport accessibility and connections to the strategic cycle network. The application will serve to bring a vacant and under-used site back into use and will help to provide additional specialist residential accommodation within the borough.
- 5.4.6 On this basis it is considered that that the principle of development is acceptable and in accordance with the Council's spatial strategy as established by policies CLP1 and CLP2 of the Chesterfield Local Plan.

5.6 Design and Appearance of the Proposal

Relevant Policies

- 5.6.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.'*
- 5.6.2 Avenue Road comprises residential dwellings which are mixed in character. To the north side of the street are red brick Victorian terrace and semi-detached properties, comprised of two storeys with dual pitch roof forms, side gables, distinctive window and door detailing such as bay windows and ornate lintel beams. To the east, the recent development at St Chad's Way and wider Westbury Homes site that was developed following the grant of planning permission in 2002. These properties are of a more contemporary residential design with a mix of character that is particular to the estate as it was developed. Along the south side of Avenue Road between the application site and Sheffield Road properties are of a mixed height and finishing, including rendering and red brick, including properties that have been subject to unsympathetic extensions and additions.

- 5.6.3 The proposal for the main building which will front onto Avenue Road introduces a contemporary design to the street scene with a mix of coloured rendered finishing and distinctive roof form with two asymmetrical pitches at either end connected by a flat roofed central atrium. The original proposed design of the scheme sought to mimic the terraced/semi-detached properties within the street however this was considered to be unnecessary and a more stand out design encouraged to distinguish the building within the streetscape. The revised design is considered to be a welcome improvement which provides a landmark contemporary building that identifies the building as within a purpose-built use.
- 5.6.4 The proposal for the main building includes relief detailing to some windows and the use of different colours as the building recesses into the central atrium which connects both wings. The scale of the building, with a maximum height of 11.3m to either wing and a total building frontage of 23.9m is considered to be acceptable in the streetscene and to not overwhelm the residential dwellings that surround the site.
- 5.6.5 To the east, the adjacent site (subject to a separate application CHE/22/00034/OUT) is proposed as 3 storeys, which will provide additional context for the scale of the main building. To the west, the ridge height of the adjacent residential property sits at 8m with an eaves height of 5.5m. The proposed asymmetrical roof is noted to be higher than that of surrounding properties however the taller element is for a narrow extent of the frontage with a lower eaves height (5.4m) that echoes the residential properties adjacent which helps to mitigate the height, as the building then steps down in stages to the central atrium which has a flat roof at a height of 6.2m. As Avenue Road travels eastwards it slopes down to meet Sheffield Road, however properties along the south side are approximately 9.6m in height to ridge.
- 5.6.6 The height of the proposed main building is acknowledged to be higher than those residential uses surrounding, however the contemporary nature of the design and narrow, sectional frontage with a distinctive roof form and varied colouring is considered to mitigate against the additional height by breaking up the mass and will provide originality to the scheme.

- 5.6.7 The high sloped roof forms to the main care home building enable the installation of photovoltaic roof cells which will enable small-scale onsite energy generation, which is welcomed.
- 5.6.8 The proposed detached day units to the rear of the site will be single storey and of a simpler design, with a maximum height of 4.5m. The siting of the units to the rear of the site and their single storey nature will mean that the building is not highly visible within the streetscene. The proposed use of rendering with brick detailing as an architectural feature is considered to be acceptable within the site context and will provide uniformity with the main building.
- 5.6.9 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The contemporary design of the main building is considered to be a positive addition to the street scene and will distinguish the building as being within a purpose-built use. The proposed design of the detached day units is considered to be appropriate within the site context and the scale and siting of the building will mean that it is not harmful to the character of the site or the wider locality. The proposal will therefore accord with the provisions of policy Local Plan Policy CLP20.

5.7 Impact on Residential Amenity

Relevant Policies

- 5.7.1 Local Plan policy CLP14 states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'
- 5.7.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'
- 5.7.3 The proposal will retain an acceptable separation distance between the proposed dwellings and surrounding residential dwellings. To the west, the property adjacent will be some 7m away which is considered to be acceptable in a residential context. To the south, the main building will be some 35m away from the nearest residential dwelling and this considered to be an acceptable

distance. To the north, the building will front Avenue Road and maintain the building line to the residential properties along the street which is considered to be acceptable.

- 5.7.4 To the west, the main care home building will sit adjacent to the residential property adjacent, with 2 of the internal units having windows to the west elevation from both the kitchen and living areas. The introduction of windows to this elevation is not wholly unacceptable and the imposition of a condition is recommended to require obscured glazing to the first floor accommodation windows to the east and west elevations. This will mitigate the risk of overlooking to the adjacent property's rear garden area.
- 5.7.5 To the east, the remainder of the application site is subject to a separate application (CHE/22/00034/OUT). An access route to the rear of the site which will provide parking and access to the detached day units is proposed to the east of the building, which will by its nature provide separation between the main building and any future development on the adjacent part of the site. Furthermore, the recommended inclusion of obscured glazing to side elevations will mitigate the risk of overlooking issues to adjacent properties.
- 5.7.6 The site boundary to the west and south is an existing wall which is detailed on the plans to be retained, this is considered to provide adequate privacy to the surrounding residents. To the east, the submitted plans detail a 1.8m high close boarded timber fence which is considered to be acceptable to protect the privacy of any future occupants of the site to the east.
- 5.7.7 The siting of the detached day units to the south of the site adjacent to the boundary is considered to be acceptable in this instance as the building and units contained therein are single storey in nature with no windows to the rear (south) elevation. Roof lights are proposed to the south facing roof slope which will provide natural light into the rooms and this is considered to be acceptable for both the amenity of surrounding residents and future occupiers of the building.
- 5.7.8 The Council's Environmental Health Officer reviewed the scheme and recommended a working hours condition to protect the residential amenity of the surrounding neighbours. It is recommended that this be secured by condition.

5.7.9 Having consideration for the observations above, based on the siting and orientation of the proposed development it is considered that the proposal will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted. Subject to conditions regarding the window detailing to the proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.8 **Highways Safety, Access, Parking Provision and Air Quality**

Relevant Policies

5.8.1 Local Plan policy CLP20 expects development to 'g) provide adequate and safe vehicle access and parking and h)

5.8.2 Local Plan policy CLP22 details the requirements for vehicle/cycle parking

'The level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including in particular:

- i. The size of any dwellings proposed.*
- ii. The type, mix and use of the development.*
- iii. The proximity of facilities such as schools, shops or employment*
- iv. The availability of and capacity for safe on-street and public car parking in the area.*
- v. Proximity to and availability of public transport and other sustainable transport options.*
- vi. The likelihood that any existing on-street parking problems in terms of highway safety, congestion, pedestrian and cyclist accessibility and amenity will be made worse.*
- vii. Local car ownership levels.*

5.8.3 The Council's Environmental Health Officer requested electric vehicle charging points be installed as part of the building phase in accordance with policy. The application proposes a car charging post to serve 2 spaces within the rear car park and this is considered to be acceptable.

5.8.4 The Local Highways Authority Derbyshire County Council has raised a number of issues on the scheme, as follows:

- Access road width: The submitted drawings does not show the width of the access road as this information is required for assessment purposes.
- Refuse vehicle: The submitted drawing states that parking and service vehicles will be accessing the site, so can you ensure that the correct drive width/length and turning areas for a refuse vehicle is provided.
- Existing access closed off: The County Council require information regarding the reason for not closing off the existing access because it does not access any dwellings and could be used to drive up onto the existing footway if left in place.
- Parking requirements: No parking bay sizes or turning has been shown so each parking bay measuring 2.4m x 4.8m should be provided and shown, plus turning for residents/visitors/staff and refuse vehicles should also be shown on the submitted drawings.
- Parking provision: No information relating to the amount of bedrooms will be provided which must conform to the parking provision of 6Cs Design Guide below.
- Drop off area: The drop off area does not contain enough information as it does not show any vehicle turning characteristics ensuring the drop off area is of an appropriate size and location.
- Access gates: Are the access gates going to be locked at all times, what distance are they from the public highway and how will the staff, residents and visitors gain access through the gates if closed to prevent staking?
- Potential future development: Has the parking provision for the proposed site taken into account the potential future new build?

5.8.5

Derbyshire Constabulary has sought further details regarding security at the site including specifications for gates and boundary treatments and has made recommendations relating to the location of cycle parking.

Access Road

5.8.6 Access to the site is taken from Avenue Road which is a 30mph classified road. The route is a busy residential street with on-street parking of residents' vehicles but also for some of those that are using the commercial / retail services within Whittington Moor District Centre. The applicant has confirmed within the planning statement and through their agent that staff are expected to travel to the site via public transport, by walking or by cycling, however there may be some that use the access road into the site to park their vehicles within the car park to the rear. The width of the access road (3.4m at its narrowest point) is sufficient for 1 vehicle to travel into the site at a time, with the security gate positioned at a point which would enable a minimum two vehicles to pull into the site from Avenue Road without causing any traffic to stack up on the road. In the event of a vehicle needing to exit / enter the site at the same time, the rear car park provides a pull in area to the left hand side which would enable this to take place safely without causing a significant risk to users of the public highway.

Refuse Vehicles

5.8.7 Refuse collection is anticipated from Avenue Road and will be by a private contractor. Bin storage and collection is provided to the front of the site and this is considered to be an acceptable arrangement. No refuse vehicles will enter the site via the access road.

Existing Site Access

5.8.8 There is an existing access to the western extent of the site frontage on Avenue Road. The applicant's agent has confirmed that this is not intended for use and can be reinstated. It is recommended that a condition is imposed to secure the reinstatement of the footway in line with Local Highway Authority guidelines.

Parking Requirements (inc. Cycle Parking)

5.8.9 The proposal includes a rear parking area with 10 no. car parking spaces, each measuring 5.5m x 2.5m. The applicant's agent has confirmed (as noted above) that staff working at the care home are anticipated to travel to work by public transport or on foot, however there will be some use of the car park. Residents are not anticipated to own cars so the parking spaces will be available for visitors (arrival times are known in advance and controlled) and for use by

some staff members. The 6Cs Design Guide has not been formally adopted as CBC policy, however it is noted that the recommended spaces which are equivalent to 1 space per 1 bedroom are satisfied by the proposed car parking arrangements for the application.

- 5.8.10 Cars are provided with sufficient turning / reversing space within the rear car park and this is shown on the proposed site plan. In addition, 2 no. bicycle parking spaces are proposed including a Sheffield stand within the rear car park (re-sited upon advice from Derbyshire Constabulary).
- 5.8.11 The LHA note that the adjacent site is marked on the site plans as to be subject to future development. This application is being considered separately and car parking requirements for the scheme will be dealt within the relevant report and recommendations as appropriate.

Drop Off Area

- 5.8.12 The initial design showed a drop off area to the front of the main care home building however this was considered inappropriate from both a design and highway safety perspective and has since been revised. Deliveries are anticipated to use the highway to the front of the building as they would do in a typical residential setting, and a drop off area is not considered to be necessary and would provide no operational advantage compared with utilising the highway edge.

Access Gates and Access into the Building

- 5.8.13 Secure access gates are shown along the access route some 15m from the highway edge which will provide sufficient space within the site to avoid stacking along the highway should there be multiple vehicles entering the site at the same time. A further security gate is shown on the proposed site plan to the western elevation of the building to provide security along this elevation.
- 5.8.14 The specification of the access gates is recommended to be subject to a condition to provide sufficient opportunity for both the LHA and Derbyshire Constabulary to comment.
- 5.8.15 Derbyshire Constabulary has requested that security / access control arrangements are specified for the entrance lobby. Again, it

is considered appropriate to secure this through the imposition of a condition.

- 5.8.16 The comments raised by the LHA and Derbyshire Constabulary are noted and have been sufficiently addressed above and through revisions to the proposed design of the scheme as appropriate. It is considered that there are no outstanding highway or security matters.
- 5.8.17 Subject to conditions as detailed above the development complies with the requirements of CLP20 and CLP22.

5.9 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.9.1 Local Plan policy CLP13 states that *‘The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.*
Development proposals and site allocations will:
a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;
b) be directed to locations with the lowest impact on water resources;
c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.
- 5.9.2 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 CLP13 and the wider NPPF the application was referred to the Council’s Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water.
- 5.9.3 The Design Services (Drainage) Team reviewed the application and have requested further details regarding the proposed drainage arrangements based on the drainage hierarchy.

- 5.9.4 Yorkshire Water reviewed the application and raised no objections in principle however have requested further evidence regarding proposed drainage arrangements, subject to condition.
- 5.9.5 Conditions requested by Yorkshire Water are copied below;
1. *The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.
(In the interest of satisfactory and sustainable drainage)*
 2. *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:*
 - a. *Evidence to demonstrate that surface water disposal via watercourse is not reasonably practical;*
 - b. *Evidence of existing drainage to public sewer and the current points of connection; and*
 - c. *The means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.*
(To ensure that no surface water discharge takes place until proper provision has been made for its disposal and in the interest of sustainable drainage)

5.9.6 The comments from Yorkshire Water and the Council's Design Services Drainage Team have been noted. It is recommended that conditions be imposed on the decision requiring further information on proposed drainage as detailed above.

5.9.7 Subject to the imposition of relevant conditions the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.10 Ground Conditions Land contamination and Land Stability

Relevant Policies

- 5.10.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*
- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and*
 - b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and*
 - c) a strategy for any necessary mitigation and/or remediation and final validation.*
- A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.*
- 5.10.2 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.'*
- 5.10.3 The application site is located in area considered to be at 'high risk' of former Coal Mining Legacy, therefore the application is supported by a Phase 1 Ground Investigation Study and Coal Mining Risk Assessment.
- 5.10.4 The Environmental Health Officer highlighted that the site is in an area which could be affected by historical land contamination and recommended that a phase 1 land contamination study and if required a phase 2 intrusive site investigation with a remediation strategy and validation report.
- 5.10.5 A Phase 1 Ground Investigation (4 April 2022) has been undertaken which makes a recommendation (page 33) that intrusive ground

investigations targeted at providing detailed data to facilitate assessment of the identified geotechnical and contamination issues are carried out. The intrusive ground investigations should provide a remediation strategy for the site. The Phase 2 Intrusive Site Investigations are therefore recommended to be secured by condition.

5.10.6 The Coal Authority, upon review of the submitted Coal Mining Risk Assessment, have recommended the inclusion of conditions to establish further details of any mining legacy issues, as follows:

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

*The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)*

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

(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)

5.10.7 Subject to the imposition of relevant conditions the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.11 **Biodiversity and Landscaping**

Relevant Policies

- 5.11.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*
- *avoid or minimise adverse impacts on biodiversity and geodiversity; and*
 - *provide a net measurable gain in biodiversity'*
- 5.11.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).
- 5.11.3 Following demolition of the residential buildings that occupied the site, the site has been levelled and existing landscaping removed. As noted above, the site has been split into two and is subject to two separate, but concurrent applications. Discussion with Strategic Planning Team, considered that biodiversity should be considered cumulatively across the whole site and addressed mutually by both schemes. This approach has been endorsed by Derbyshire Wildlife Trust.
- 5.11.4 On that basis, the applicant commissioned an ecologist to prepare a Biodiversity Offset and Mitigation Assessment (V3, 17 August 2022). The Biodiversity Impact Calculation (para 2.3) notes that the proposed development across the whole site results in a net loss in calculated biodiversity units of 0.45 habitat units. This decrease is primarily in habitat of low distinctiveness as the urban tree area has increased overall by retaining trees and adding new tree planting within the rear garden areas of the sites. On this basis it is considered reasonable to impose a condition to secure a scheme of biodiversity net gain.
- 5.11.5 Derbyshire Wildlife Trust has queried the assumptions within the biodiversity assessment and the use of the appropriate which have been further reviewed by the applicant's ecologist (CBE Consulting) and corrected as appropriate. The biodiversity assessment now uses the DEFRA Biodiversity Metric 3.1.
- 5.11.6 The application is supported by a site layout plan but detailing on the landscaping, surface treatments and boundary treatments remains unconfirmed. In addition, the site would benefit from a formal boundary treatment to the site frontage to Avenue Road which would

provide separation between public and private spaces and would provide screening to the proposed bin storage area to the site frontage.

- 5.11.7 On that basis, and to secure the appropriate biodiversity net gain measures, it is considered reasonable to impose conditions which require the provision of landscaping, biodiversity net gain measures and boundary treatments.
- 5.11.8 Furthermore, the Environmental Health officer has requested that the lighting be designed so as to control glare and overspill onto nearby residential properties. It is considered reasonable to impose a condition to confirm the details of proposed lighting at the site.
- 5.12.9 Subject to conditions as recommended above the development accords with the requirements of CLP16 and the NPPF.

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters and site notice. 2 representations have been received and are summarised below (see representations for full comments):
- Concerns raised regarding the occupancy of the care home in respect of antisocial behavior, crime and security
 - Concerns raised regarding overlooking potential.
- 6.3 ***Officer comments – the above comments have been noted.***
- ***Security: The client profile for the proposed care home has been described at paragraphs 4.2 and 4.3. The proposed occupants are not offenders, rather people with complex care needs including with learning disabilities, mental health conditions, and other needs. The building will be secured in line with recommended Care Quality Commission standards and details for access / security arrangements for the secure lobby area and security gates within the grounds are subject to conditions.***
 - ***Overlooking: The separation distance between the proposal and no. 8 Avenue Road is sufficient and the proposal is not considered to generate any substantial overlooking issues that cannot be mitigated through the use of obscured glazing to windows within side elevations. Furthermore, the parcel of the site closest to 8 Avenue Road is subject to a***

separate application and any overlooking issues will be addressed within the report and recommendations for that application as appropriate.

7.0 HUMAN RIGHTS ACT 1998

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

9.0 CONCLUSION

9.1 The proposal would introduce a residential care home use to a brownfield site in a highly sustainable location. The site sits adjacent to the Whittington Moor District Centre boundary and is therefore within close proximity to a range of Key Services and public transport routes and infrastructure. The proposal therefore satisfies

the requirements of Local Plan policies CLP1 and CLP2 and the NPPF.

- 9.2 The proposal is considered to be appropriately designed in a contemporary style and would not cause adverse impacts on the visual amenity and character of the area. Subject to conditions the proposal will therefore accord with the provisions of policy Local Plan policy CLP20.
- 9.3 Due to the siting and scale of the proposal the proposal is not considered to cause significant adverse impacts on the residential amenity of the adjoining neighbours and therefore accords with the amenity considerations of Local Plan policies CLP14 and CLP20, subject to conditions.
- 9.4 Subject to conditions no highways safety concerns arise and it is considered the site can accommodate sufficient off-street parking and provides satisfactory measures to accommodate access / egress from the site. It is therefore considered that the proposal accords with the requirements of CLP20 and CLP22.
- 9.5 Subject to conditions and the submission of further details controlled by condition covering land contamination, drainage and biodiversity the proposal is considered to accord with the principles of CLP13, CLP14, CLP16 and the wider National Planning Policy Framework.
- 9.6 The application is therefore considered to be acceptable from a design, amenity, highway safety, access, security, drainage, land contamination, ground conditions, biodiversity and landscaping perspective.

10.0 RECOMMENDATION

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

Conditions

Standard time frame

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

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

Approved plans and documents

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
 - Site Location Plan, drawing no. 14, 1:1250 @ A4, (dated December 2021)
 - Proposed Site Plan, drawing no. 10-E, 1:200 @ A1 (dated November 2021)
 - Proposed Plans and Elevations, drawing no. 13-C, 1:100 @ A1, (dated 14/04/2022)
 - Crisis Intervention Unit – Option 2 (plans and elevations), drawing no. 12-B, 1:100 & 1:50 @ A2, (dated December 2021)
 - Street Elevation, drawing no. 30, 1:200 @ A1, (dated 15/02/2022)

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

Pre-commencement – Land contamination

3. a) Prior to work commencing on site, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;
b) Prior to works commencing on site, detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination

Proposals' shall be submitted to and approved in writing by the Local Planning Authority;

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

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

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

Pre-commencement – Coal Mining

4. No development shall commence until:

- (a) A scheme of intrusive investigations has been carried out on site to establish the risk posed to the development by past coal mining activity; and
- (b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

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

Reason – In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Coal Mining

- 5. Prior to the development hereby being permitted being occupied or being brought into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning

Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason – In order to ensure the safety and stability of the development in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Hours of Construction

6. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

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

Drainage - surface water

7. 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:
 - a) Evidence to demonstrate that surface water disposal via watercourse is not reasonably practical;
 - b) Evidence of existing drainage to public sewer and the current points of connection; and
 - c) The means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

Reason - To ensure that no surface water discharge takes place until proper provision has been made for its disposal and in the interests of sustainable drainage

Drainage – separate foul and surface

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

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

Biodiversity Net Gain

9. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2021. Such approved measures shall be implemented in full and maintained thereafter as part of the development. The plan shall clearly show positions, specifications and numbers of features.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of Chesterfield Local Plan and to accord with paragraph 170 of the National Planning Policy Framework

Landscaping

10. Notwithstanding the submitted details 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 including species and planting density. The plan shall include indications of all existing trees, hedgerows and other vegetation on the land to be retained and detail measures for the protection of retained vegetation during the course of development, including details of ecologically beneficial landscaping to provide a biodiversity enhancement.
 - b) proposed hardstanding surfacing materials and shall include elevational drawings of boundary treatments including materials, types of fencing and treatment/colour.

- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

Reason - In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance its setting within the immediate locality in accordance with CLP16 of the Chesterfield Local Plan.

Retention of Soft Landscaping

11. The landscaping provided shall be retained and maintained as follows:
- a) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner;
 - b) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.
 - c) Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
 - d) All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Boundary Treatments

12. Full details of the boundary treatment to the northern boundary of the property adjacent to Avenue Road shall be submitted to and approved in writing by the local planning authority. The details which are subsequently agreed in writing shall be carried out as part of the development and shall be completed prior to the

development hereby agreed being first occupied / brought into beneficial use and shall be retained as such thereafter.

Reason - To ensure a satisfactory boundary treatment to the site in the interests of visual amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Reinstatement of Footway

13. Prior to the development hereby being permitted being occupied / brought into beneficial use, the existing vehicular / pedestrian access from Sheffield Road into the site shall be permanently closed off and the existing vehicular cross reinstated as footway in accordance with the County Council's latest standard for works in the public highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the measures to close off the access shall be retained as approved throughout the lifetime of the development.

Reason - To ensure safe and suitable access for all users, in the interests of highway safety.

Lighting

14. Prior to installation of any external lighting scheme for the site, a detailed scheme shall be submitted to the Local Planning Authority for consideration. The lighting scheme agreed in writing shall be fully implemented in accordance with the approved scheme before the use commences and retained as such thereafter.

Reason - To ensure that the development does not appear as an unduly prominent feature in the area and in the interests of residential amenity in accordance with Policy CLP14 of the Chesterfield Local Plan.

Parking Provision

15. Prior to the development hereby being permitted being occupied / brought into beneficial use, space shall be provided within the application site in accordance with the approved application

drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and thereafter maintained throughout the life of the development free from any impediment to its designated use.

Reason - In the interests of providing adequate off-street parking provision in accordance with CLP20 and CLP22.

Electric Vehicle Charging Infrastructure

16. The Electric Vehicle Charging Points (EVCPs) shown as part of the agreed scheme shall be provided for at least 2 no. car/van parking spaces together with passive provision to be made available for the remainder of the site so that spaces are capable of being readily converted to EVCPs in the future. The EVCPs shall be available for use concurrent with the first occupation of the building and which shall thereafter be retained and maintained operational for the lifetime of the development.

Reason - In the interests of reducing emissions in line with Policy CLP22 of the Adopted Local Plan 2020.

Secure Gates to Entrance Ways

17. Prior to the development being occupied / brought into beneficial use, the details, specification and access control arrangements for the security gates at the exterior of the building and the buildings entrance lobby shall be submitted to the Local Planning Authority for consideration. The detail subsequently agreed in writing shall be carried out as part of the development and shall be retained as such thereafter for the life of the development.

Reason – In the interest of security.

Obscure Glazing

18. Prior to the development hereby being permitted being occupied brought into use the first floor windows to the side (east and west) elevations shall be installed with obscure glazing to at least Pilkington level 4 and with no opening part being less than 1.7 metres above the floor level immediately below the centre of the opening part. Once installed the glazing shall be retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with CLP14 and CLP20 of the of the adopted Chesterfield Borough Local Plan

Solar PV

19. Prior to installation of the solar PV arrays shown on the agreed drawings full details shall be submitted to the Local Planning Authority for consideration. The details agreed in writing shall be fully implemented in accordance with the approved scheme before the use commences and retained as such thereafter.

Reason - To ensure a satisfactory appearance of the building in the interests of amenity of the area in accordance with policy CLP20 of the Chesterfield Local Plan.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
3. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
4. It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific

emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on.

5. It should be noted that where SUDS are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.
6. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp , e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
7. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with loose material (i.e. unbound chippings or gravel.) 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. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
9. 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.

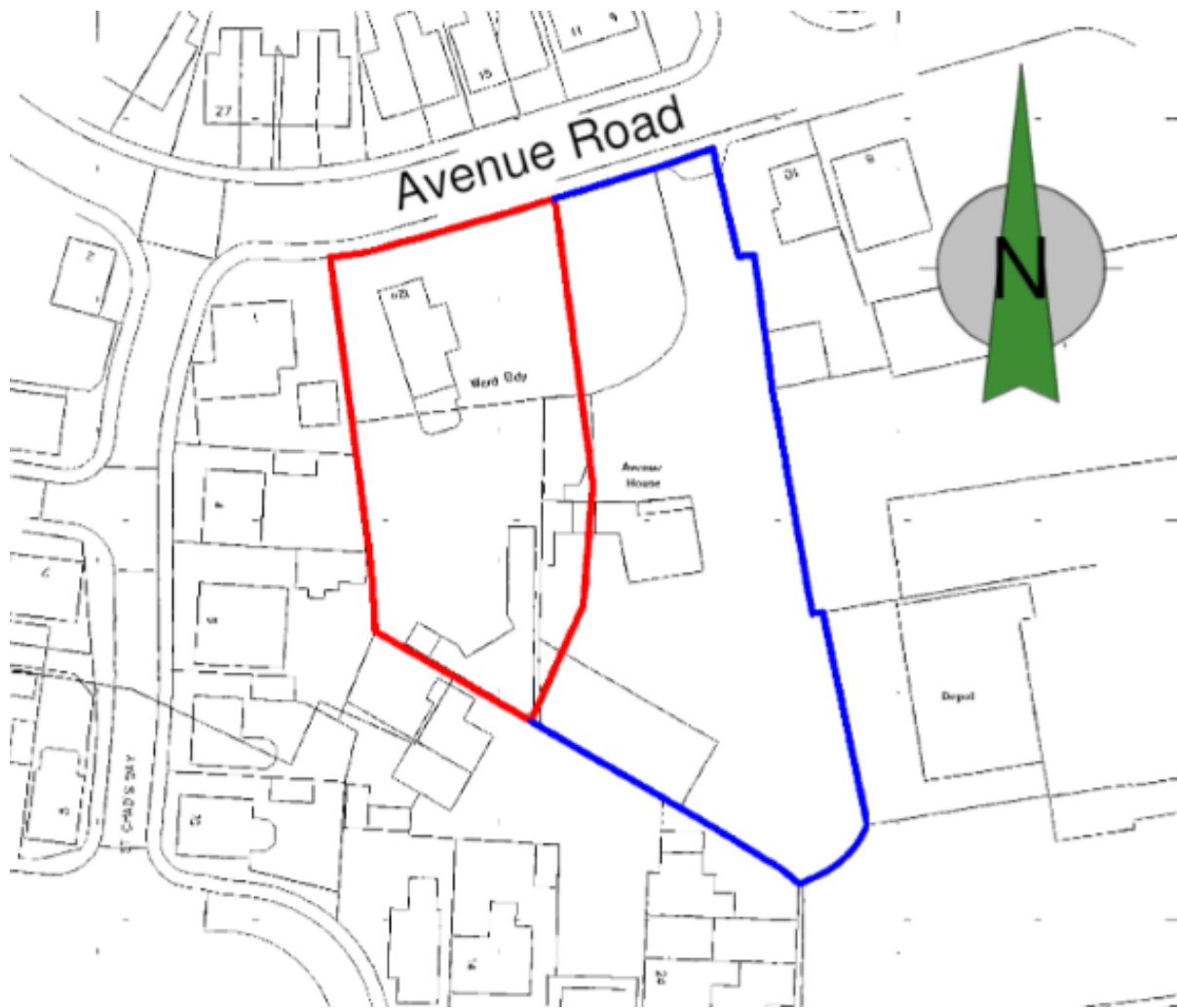
10. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Mr J Adams, Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Council's website, relevant forms are available via the following link: <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx>
11. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties.
12. In accordance with the ecological/biodiversity enhancement condition measures shall include but shall not be limited to:
 - Bird/owl/bat boxes
 - (Locating your nestbox: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
 - You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
 - The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits.

- Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.
- Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)
 - (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
 - Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.
 - Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
 - Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
 - Bee bricks.

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

	<p>cladding). Native species planting and boundary features: Berry and seed producing shrubs are particularly beneficial for wildlife and include: Barberry, Blackthorn, Common Dogwood, Guelder Rose Hawthorn and Spindle berry.</p>	<p>installing bird boxes including minimum height see: https://www.bto.org/how-you-can-help/providing-birds/putting-nest-boxes-birds/putting-nest-box Generally, boxes should be sheltered from prevailing wind, rain and strong sunlight. Check local records (Magic portal and DWT advice) for target species.</p>
<p>Invertebrates</p>	<p>Bug hotels and log piles with stones: particularly near ponds. South facing banks: with some bare ground. Rough or natural stone walls with holes for invertebrates to use. Brown roofs with a range of substrates these are particularly recommended on brownfield sites where open mosaic habitat may have</p>	<p>Examples of living roof projects are available on the Buglife web page: https://www.buglife.org.uk/our-work/living-roof-projects/</p>

	been lost. The substrate does not have to cover the entire roof.	
--	--	--



This page is intentionally left blank

ITEM 5**3 STOREY RESIDENTIAL BLOCK WITH ASSOCIATED PARKING AND ACCESS (REVISED PLANS RECEIVED 24/05/2022 AND 20/06/2022) AT AVENUE VILLA, 12A AVENUE ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8TA FOR DIGNUS HEALTHCARE**

Local Plan: Unallocated, within the built up area defined by Policy CLP3

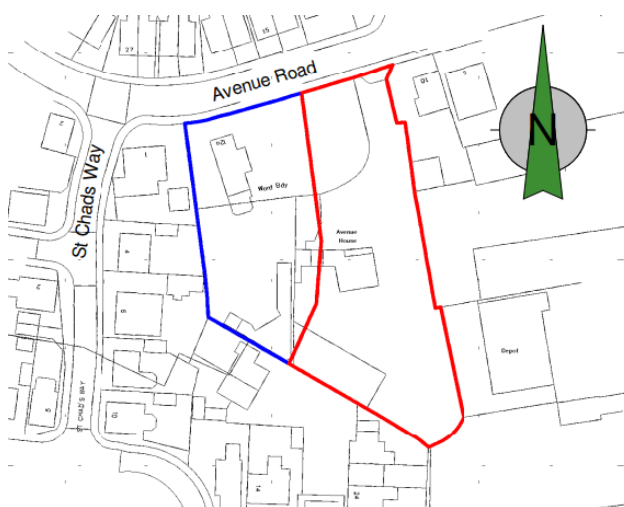
Ward: Dunston / Moor

1.0 CONSULTATIONS

Ward Members	No comments received.
Local Highways Authority	Comment received – see report
Design Services Drainage	Comment received – see report
The Coal Authority	Comment received – see report Conditions recommended.
Yorkshire Water	Comment received – see report Conditions recommended.
Derbyshire Constabulary	no objections in principle – see report.
Derbyshire Wildlife Trust	Comment received – see report
Strategic Planning	Comments received – see report
Environmental Health	no adverse comments to make however request a condition restricting the hours of building work at the site, and a condition regarding EV charging points in the car parking areas.
Representations	4 representations received – see report

2.0 THE SITE

- 2.1 The site subject of this application is situated on the south side of Avenue Road, adjacent to the recent development at St Chad's Way and to the rear of industrial and commercial uses fronting on to Sheffield Road. To the north are residential properties fronting Avenue Road and the entrance to the Lidl, to the east are residential properties along Avenue Road and commercial units fronting Sheffield Road, to the south and west are properties on St Chad's Way.
- 2.2 The site is in a sustainable location in walking distance to a range of services in Whittington Moor District Centre (the application site abuts the District Centre boundary) which contains a range of Key Services and is also a main route for a range of high frequency public transport routes. Part of the Strategic Cycle network is also close by, adjacent to the A61. The application site is within the defined Built up Area as defined by Policy CLP3 of the Chesterfield Local Plan and is unallocated on the Chesterfield Borough Council adopted local plan policies map 2018-2035.



Extract of submitted location plan ©



Aerial photograph taken from Google maps ©

- 2.3 As can be shown from the site plan above, the owners of the site have split the whole site into two, with a separate application being progressed for the remainder of the plot (CHE/21/00926/OUT). The application site plot is broadly rectangular in shape covering approximately 0.23 hectares in area (2300sqm). The prior use of the site was for residential with a number of residential buildings on site

and onsite landscaping. As a result of anti-social behaviour issues, the buildings on site were demolished and the site is currently level. The landscaping shown on the Google earth image above has been removed.



Photo taken from within the site looking north to Avenue

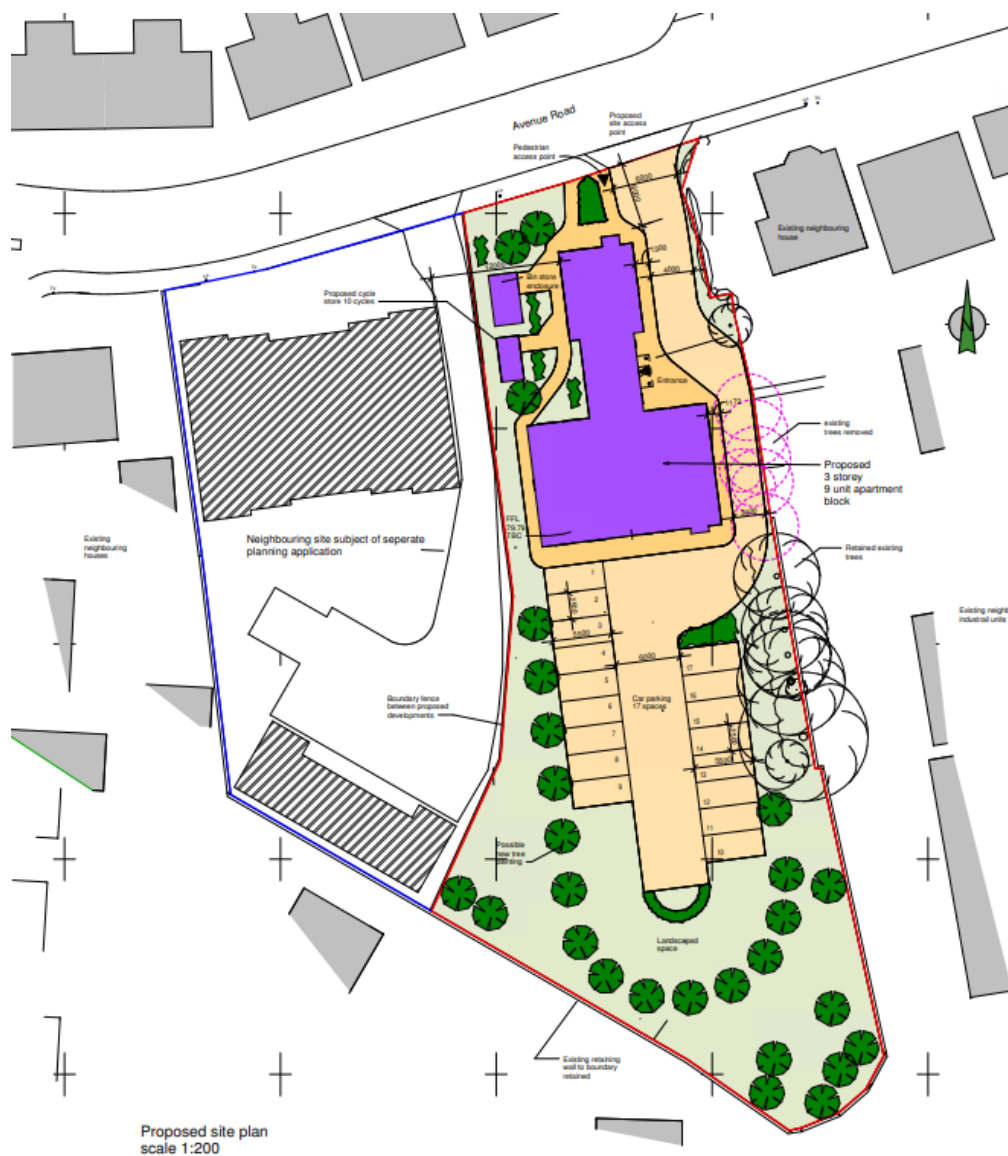


Photo taken from within the site looking east

3.0 **SITE HISTORY**

- 3.1 CHE/1085/0642 – Permission for the erection of dwelling
CONDITIONAL PERMISSION (19/11/1985)
- 3.2 CHE/0690/0452 – Single storey extension to form multi gym bedroom sauna room and laundry room
CONDITIONAL PERMISSION (11/07/1990)
- 3.3 CHE/13/00453/FUL – Two storey extension
CONDITIONAL PERMISSION (12/09/2013)
- 3.4 CHE/21/00926/FUL – Erection of a new care home facility with separate detached day units and creation of new access and auxiliary car parking areas.
PENDING CONSIDERATION

4.0 **THE PROPOSAL**



- 4.1 The application seeks outline planning permission for a 3 storey 9 unit residential block with associated parking and access. The following matters are for determination under the outline application: access, layout and scale. All other matters are reserved.
- 4.2 The initial application submission included indicative elevational drawings and a 3D model for the building which were considered to be too detailed and inappropriate for an outline application. The scheme was therefore revised and the siting of the building amended to position it closer to the site frontage in line with other buildings along Avenue Road.
- 4.3 The proposal demonstrates development to the northern extent of the plot in an inverted 'T' shaped form with front landscaping, bin store enclosure, cycle storage, an access route to the east of the building which leads to a rear car park (space for 17 cars provided)

and rear landscaped garden. A separate pedestrian access is shown from Avenue Road.

4.4 The application form indicates that the proposal is for 9 residential units, 6 x 2 bedroom flats and 3 x 1 bedroom flats.

4.5 The application is supported by the following documents:

- Phase 1 Ground Investigation which includes a Coal Mining Risk Assessment (4th April 2022)
- Flood Risk Assessment which includes recommendations on drainage (1st April 2022)
- Biodiversity Offset and Mitigation Assessment (V3) (17 August 2022)
 - Biodiversity Calculation

5.0 CONSIDERATIONS

5.1 Planning Policy

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

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

- Part 2. Achieving sustainable development
- Part 5. Delivering a sufficient supply of homes
- Part 8. Promoting healthy and safe communities
- Part 9. promoting sustainable transport

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

5.4 **Principle of Development**

Relevant Policies

- 5.4.1 The application site is unallocated and is positioned within the built up area of Whittington Moor therefore policies CLP1 and CLP2 are of relevance.
- 5.4.2 Policy CLP1 states that *‘The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the ‘place shaping’ areas set out in policies SS1 to SS6 and Regeneration Priority Areas.’*
- 5.4.3 Policy CLP2 states that when *‘Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:*
- a) deliver the council’s Spatial Strategy (policy CLP1);*
 - b) are on previously developed land that is not of high environmental value;*
 - c) deliver wider regeneration and sustainability benefits to the area;*
 - d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;*
 - e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;*
 - f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;*
 - g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
 - h) are not on the best and most versatile agricultural land;’*
- 5.4.4 The principle of development is assessed through consideration of Local Plan Policies CLP1 and CLP2 (see extracts above).
- 5.4.5 The application site is previously developed land, within the settlement boundary, and sits adjacent to the boundary of the

Whittington Moor District Centre, which provides a range of key services and facilities and good public transport accessibility and connections to the strategic cycle network. The application will serve to bring a vacant and under-used site back into use and will help to provide additional residential accommodation within a sustainable location within the borough.

5.4.6 On this basis it is considered that that the principle of development is acceptable and in accordance with the Council's spatial strategy as established by policies CLP1 and CLP2 of the Chesterfield Local Plan.

5.6 Design and Appearance of the Proposal

Relevant Policies

5.6.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.'*

5.6.2 As the application is in outline, the only matter that can be considered at this stage is the scale of the proposal, which is detailed to be at 3 storeys.

5.6.3 The proposal for the building to the north end of the site will help to maintain the build line along Avenue Road, when coupled with the proposed adjacent development on the site subject of application (CHE/21/00926/FUL). This is considered to be appropriate in the site context given that Avenue Road presents a consistent building line travelling down the street with properties relatively close to the highway edge. The proposal will provide continuity to this which is considered to be appropriate.

5.6.4 Between the site frontage and where Avenue Road meets Sheffield Road, buildings have a more varied character and scale, with conversion of some buildings into flat accommodation apparent at this part of the street. The proposal for further flat accommodation in this context is therefore considered to be acceptable.

5.6.5 The proposed site plan demonstrates a narrower part of the building to the site frontage which will help to mitigate against the three

storey nature of the building within the street scene at this point, with the mass of the building sited further away from the street edge. The scale of the proposal is therefore considered to be acceptable.

- 5.6.6 The appearance of the proposal is a reserved matter and will be dealt with in detail within future applications for the scheme and will be subject to the design considerations as set out in Policy CLP20 and in the 'Successful Places' Residential Design Guide SPD.
- 5.6.7 Having consideration for the observations above the proposal is considered to be acceptable in terms of its scale and siting and therefore accord with the relevant provisions of Policy CLP20 of the Chesterfield Local Plan, with appearance being a reserved matter to be dealt with through future applications.

5.7 **Impact on Residential Amenity**

Relevant Policies

- 5.7.1 Local Plan policy CLP14 states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'
- 5.7.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'
- 5.7.3 The proposal will retain an acceptable separation distance between the proposed dwellings and surrounding residential dwellings opposite and which will be generally in line with the what currently exists along Avenue Road. To the west, the remainder of the application site is being considered under CHE/21/00926/FUL and the proposal retains adequate separation distance between the proposal on the adjacent site and the proposed siting of the residential block. Any measures to reduce or mitigate against overlooking impacts will be dealt with through future reserved matters applications.
- 5.7.4 To the east, the proposed building is separated from the residential block adjacent (10 Avenue Road) by the access route within the site which leads to the rear car park and by external space within the curtilage of 10 Avenue Road, with a separation distance of

approximately 12m, which is considered to be acceptable in a residential setting.

- 5.7.5 The site boundary to the west and south is an existing wall which is detailed on the plans to be retained, this is considered to provide adequate privacy to the surrounding residents. Beyond the southern boundary are residential properties. The residential block will be sited over 40m from the southern boundary which should help to mitigate against any risk of overlooking.
- 5.7.6 The Council's Environmental Health Officer reviewed the scheme and recommended a working hours condition to protect the residential amenity of the surrounding neighbours. It is recommended that this be secured by condition.
- 5.7.7 Having consideration for the observations above, based on the siting and orientation of the proposed development it is considered that the proposal will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted. Subject to conditions regarding the window detailing to the proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.8 Highways Safety, Access, Parking Provision and Air Quality

Relevant Policies

- 5.8.1 Local Plan policy CLP20 expects development to 'g) provide adequate and safe vehicle access and parking and h)
- 5.8.2 Local Plan policy CLP22 details the requirements for vehicle/cycle parking
- 'The level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including in particular:*
- i. The size of any dwellings proposed.*
 - ii. The type, mix and use of the development.*
 - iii. The proximity of facilities such as schools, shops or employment*
 - iv. The availability of and capacity for safe on-street and public car parking in the area.*
 - v. Proximity to and availability of public transport and other sustainable transport options.*

- vi. *The likelihood that any existing on-street parking problems in terms of highway safety, congestion, pedestrian and cyclist accessibility and amenity will be made worse.*
- vii. *Local car ownership levels.*

5.8.3 The Council's Environmental Health Officer and the Strategic Planning Team have requested electric vehicle charging points be installed as part of the building phase in accordance with policy. This can be secured by condition.

5.8.4 The Local Highways Authority Derbyshire County Council has raised a number of issues on the scheme, as follows:

- Parking provision: The parking standards (see below and each measuring 2.4m x 4.8m) are required, so can you explain how the proposed figure of 7 spaces has been calculated? [Extract of 6Cs design guide provided detailing the following: One bedroom dwellings: 1 space per unit plus 1 space per 2 units for visitors, Two and three bedroom dwellings: 2 spaces per unit]
- Gated access: At present the access is gated, so can you inform the County Council if this gate will be removed or moved? This information is require to ensure the gate (if closed) does not impede the access and egress of all vehicles from the site.
- Pedestrian access provision: No separate pedestrian provision seems to have been provided as it looks like any pedestrians will have to access the site via the widened access road, so can you explain the rationale behind this decision? Do the proposals for the pedestrian / vehicle access involve the removal of the boundary wall and alteration of the existing dropped crossing?
- Refuse / resident / visitor vehicle turning: The site must show tracking using the largest operable vehicle (likely to be a refuse collection vehicle, fire tender and/or delivery vehicle) to demonstrate suitability. Tracking assessments shall always account for the potential for on-street parking, whether in dedicated facilities or just on-street. The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins and means of access including the removal of specialist waste. Suitability of the layout for use by a Large Refuse Vehicle of 11.6m length should be demonstrated by means of appropriate swept paths/turning head and tracking

assessments shall always account for the potential for on-street parking, whether in dedicated facilities or just on-street.

- 5.8.5 The Strategic Planning Team has requested that further detail is provided regarding the cycle storage facility to the front of the site (space for 10 bicycles) and it is considered that this can be secured by condition.

Parking Provision

- 5.8.6 The proposed site plan shows 17 no. car parking spaces for 3 x 1 bedroom and 6 x 2 bedroom dwellings. The proposed parking provision satisfies the recommended parking capacity within the site.

Pedestrian Access Provision

- 5.8.7 Revised designs have demonstrated the inclusion of a separate pedestrian access to the front of the site which is considered to be acceptable.

Refuse / resident / vehicle turning

- 5.8.8 The applicant's agent has confirmed that refuse collection is anticipated from the front of the site and the proposed site plan shows a bin storage area to the front. Further details on the appearance will be dealt with by future reserved matters applications and the proposed arrangements are considered to be satisfactory.
- 5.8.9 The proposed rear car park shows a parking layout of two rows of parking with 6m of separation distance down a central avenue which is sufficient for vehicles reversing. Car parking spaces are 5.5m x 2.5m. The proposed car parking layout is therefore considered to be acceptable.
- 5.8.10 The comments raised by the LHA are noted and have been sufficiently addressed above and through revisions to the proposed design of the scheme as appropriate. It is considered that there are no outstanding highway matters at this outline stage subject to the imposition of conditions as recommended by the LHA.
- 5.8.17 Subject to conditions as detailed above the development complies with the requirements of CLP20 and CLP22.

5.9 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.9.1 Local Plan policy CLP13 states that *‘The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.*
Development proposals and site allocations will:
a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;
b) be directed to locations with the lowest impact on water resources;
c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.
- 5.9.2 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 CLP13 and the wider NPPF the application was referred to the Council’s Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water.
- 5.9.3 The Design Services (Drainage) Team reviewed the application and have requested further details regarding the proposed drainage arrangements based on the drainage hierarchy.
- 5.9.4 Yorkshire Water reviewed the application and raised no objections in principle however have requested further evidence regarding proposed drainage arrangements, subject to condition.
- 5.9.5 Conditions requested by Yorkshire Water are copied below;
1. *The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.*
(In the interest of satisfactory and sustainable drainage)
 2. *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:

- a. Evidence to demonstrate that surface water disposal via watercourse is not reasonably practical;*
- b. Evidence of existing drainage to public sewer and the current points of connection; and*
- c. The means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.*

(To ensure that no surface water discharge takes place until proper provision has been made for its disposal and in the interest of sustainable drainage)

5.9.6 The comments from Yorkshire Water and the Council's Design Services Drainage Team have been noted. It is recommended that conditions be imposed on the decision requiring further information on proposed drainage as detailed above.

5.9.7 Subject to the imposition of relevant conditions the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.10 Ground Conditions Land contamination and Land Stability

Relevant Policies

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

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

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.

- 5.10.2 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.’*
- 5.10.3 The application site is located in area considered to be at ‘high risk’ of former Coal Mining Legacy, therefore the application is supported by a Phase 1 Ground Investigation Study and Coal Mining Risk Assessment.
- 5.10.4 The Environmental Health Officer highlighted that the site is in an area which could be affected by historical land contamination and recommended that a phase 1 land contamination study and if required a phase 2 intrusive site investigation with a remediation strategy and validation report.
- 5.10.5 A Phase 1 Ground Investigation (4 April 2022) has been undertaken which makes a recommendation (page 33) that intrusive ground investigations targeted at providing detailed data to facilitate assessment of the identified geotechnical and contamination issues are carried out. The intrusive ground investigations should provide a remediation strategy for the site. The Phase 2 Intrusive Site Investigations are therefore recommended to be secured by condition.
- 5.10.6 The Coal Authority, upon review of the submitted Coal Mining Risk Assessment, have recommended the inclusion of conditions to establish further details of any mining legacy issues, as follows:
1. *No development shall commence until:*
 - a. A scheme of intrusive investigations has been carried out on site to establish the risk posed to the development by past coal mining activity; and*
 - b. Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy,*

as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

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

(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)

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

(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)

- 5.10.7 Subject to the imposition of relevant conditions the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.11 Biodiversity and Landscaping

Relevant Policies

- 5.11.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*

- *avoid or minimise adverse impacts on biodiversity and geodiversity; and*
- *provide a net measurable gain in biodiversity'*

- 5.11.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).

- 5.11.3 Following demolition of the residential buildings that occupied the site, the site has been levelled and existing landscaping removed. As noted above, the site has been split into two and is subject to two separate, but concurrent applications. Upon discussion with Strategic Planning, it was considered that biodiversity be considered

cumulatively across the whole site and addressed mutually by both schemes. This approach has been endorsed by Derbyshire Wildlife Trust.

- 5.11.4 On that basis, the applicant commissioned an ecologist to prepare a Biodiversity Offset and Mitigation Assessment (V3, 17 August 2022). The Biodiversity Impact Calculation (para 2.3) notes that the proposed development across the whole site results in a net loss in calculated biodiversity units of 0.45 habitat units. This decrease is primarily in habitat of low distinctiveness as the urban tree area has increased overall by retaining trees and adding new tree planting within the rear garden areas of the sites. On this basis it is considered reasonable to impose a condition to secure a scheme of biodiversity net gain.
- 5.11.5 Derbyshire Wildlife Trust has queried the assumptions within the biodiversity assessment and the use of the appropriate which have been further reviewed by the applicant's ecologist (CBE Consulting) and corrected as appropriate. The biodiversity assessment now uses the DEFRA Biodiversity Metric 3.1
- 5.11.6 The application is supported by a site layout plan but detailing on the landscaping, surface treatments and boundary treatments remains unconfirmed and is a reserved matter. In addition, the site would benefit from a formal boundary treatment to the site frontage to Avenue Road which would provide separation between public and private spaces and would provide screening to the proposed bin storage area to the site frontage.
- 5.11.7 On that basis, and to secure the appropriate biodiversity net gain measures, it is considered reasonable to impose conditions which require the provision of landscaping, biodiversity net gain measures and boundary treatments through subsequent reserved matters applications as appropriate.
- 5.12.8 Subject to conditions as recommended above the development accords with the requirements of CLP16 and the NPPF.

5.12 Developer Contributions

- 5.12.1 As the development involves the creation of new dwellings, the proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium CIL charging zone as set out in the

Council's Charing Schedule, which is currently charged at a rate of £57.64 per square meter of gross internal floorspace.

- 5.12.2 If approved, the applicant would be required to submit information at the reserved matters stage when a CIL Liability Notice would be issued.

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters and site notice. 4 representations have been received and are summarised below (see representations for full comments):

- 6.2 Comments received on initial submission raised the following concerns:

- Traffic congestion
- Overlooking & privacy
- Security
- Impact of planting on adjacent properties

- 6.3 Comments received on revised submission raised the following concerns:

- Overshadowing & loss of light
- Privacy
- Impact of loss of on site trees on wildlife and nature conservation
- Impact of scale and massing of the building

- 6.4 ***Officer comments – the above comments have been noted.***

- ***Traffic congestion: The proposed residential use of the site is an appropriate use of the site within a highly sustainable location. Sufficient parking is provided within the site boundary which will serve to minimise the risk of any spill out parking onto Avenue Road. Traffic levels along Avenue Road are not considered to be severely or unacceptably impacted by the proposed re-introduction of a residential use to the site.***
- ***Overlooking & privacy: The proposed building would not result in any substantial additional overlooking issues beyond what would be expected within a residential setting. Specific details of the design which would serve to mitigate***

against the risk of overlooking will be dealt with through subsequent reserved matters applications with bespoke solutions found as required.

- ***Security: The introduction of a residential use to the site is considered beneficial from a security perspective as re-development would prevent the continued use of the site as a location for anti-social behaviour.***
- ***Impact of planting on adjacent properties: Landscaping is a reserved matter and will be dealt with through subsequent reserved matters applications. Appropriate species selection is an important consideration which will be taken into account in due course.***
- ***Overshadowing and loss of light: The height of the building is considered to be acceptable in this context, the adjacent property sits across 3 storeys and therefore the proposed 3 storey block is not considered to be unacceptable or so significantly harmful as to warrant a refusal in this instance. The site is not immediately due south of any surrounding residential properties and therefore the overshadowing and loss of light impacts are considered to be minimal. The positioning of the building towards the front of the site in line with other properties on the street will help to ensure that impacts on adjacent properties are consistent with those found and accepted elsewhere in the locality.***
- ***Nature conservation: The application is subject to a requirement to deliver a net gain for biodiversity and the landscaping details to be provided within subsequent reserved matters applications will provide the precise details of proposed net gain measures.***
- ***Scale and massing: The scale and massing of the proposal is considered to be acceptable in this context, to be appropriate to the site and to the wider locality.***

6.5 The above comments are noted and considered to have been sufficiently considered and addressed within 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 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

9.0 CONCLUSION

9.1 The proposal is in outline form with access, layout and scale to be determined under this application with all other matters reserved. The proposed development is considered to be acceptable in principle and the proposed site layout, access arrangements and scale across 3-storeys are all considered to be in line with policy requirements as set out in the Chesterfield Local Plan and further material considerations established within the National Planning Policy Framework.

9.2 Subject to the imposition of conditions, the proposal is considered to be acceptable from a design, amenity, highway safety, access, drainage, land contamination, ground conditions and biodiversity perspective.

10.0 RECOMMENDATION

10.1

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

Conditions

Reserved matters submissions

1. Approval of the details of the landscaping and appearance of the proposal (hereinafter called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).

Time frame for reserved matters submission(s)

2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason – The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Time frame for commencement

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Approved plans and documents

4. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Existing site plan, drawing no. 02A, 1:200 @ A1, (dated January 2022)
- Proposed Site Plan, drawing no. 03A, 1:200 @ A1 (dated 19/06/2021)

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

Pre-commencement – Land contamination

5. Prior to the submission of a reserved matters application:
 - a) the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;

Prior to the commencement of development:

- b) detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
- c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
- d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;
- e) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';
- f) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority.

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

Pre-commencement – Coal Mining

6. Prior to the submission of the reserved matters application:
(a) A scheme of intrusive investigations shall be carried out on site to establish the risk posed to the development by past coal mining activity;

Prior to the commencement of development:

- (b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

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

Reason – In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Coal Mining

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

Reason – In order to ensure the safety and stability of the development in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Hours of Construction

7. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and

1300 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

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

Drainage - surface water

8. 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:
- a) Evidence to demonstrate that surface water disposal via watercourse is not reasonably practical;
 - b) Evidence of existing drainage to public sewer and the current points of connection; and
 - c) The means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

Reason - To ensure that no surface water discharge takes place until proper provision has been made for its disposal and in the interests of sustainable drainage

Drainage – separate foul and surface

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

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

Water Efficiency

10. No individual dwelling unit approved as part of the reserved matters shall be occupied until the requirement for water

consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason – To protect the water environment and in accordance with policy CLP13 of the Chesterfield Local Plan

Biodiversity Net Gain

11. Concurrent with the submission of landscaping details as part of a reserved matters application, plans/drawings shall be submitted to the Local Planning Authority for approval in writing demonstrating the creation of a suitable habitat which enhances the ecological interest of the site with a maintenance plan, to achieve a Biodiversity Net Gain in line with guidance within the NPPF. (This shall include but not be limited to the planting of native shrubs and trees such as rowan, bird cherry, birch, guelder rose, dogwood, hazel, goat willow, alder buckthorn or fruit trees such as apple and pear, the incorporation of integrated bird boxes / terraces, small mammal measures such as hedgehog highways)

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of Chesterfield Local Plan and to accord with paragraph 170 of the National Planning Policy Framework

Landscaping

12. Within the reserved matters application a detailed landscaping plan shall be submitted to the Local Planning Authority for approval. 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 including species and planting density. The plan shall include indications of all existing trees, hedgerows and other vegetation on the land to be retained and detail measures for the protection of retained vegetation during the course of development, including details of ecologically beneficial landscaping to provide a biodiversity enhancement.
 - b) proposed hardstanding surfacing materials and shall include elevational drawings of boundary treatments including materials, types of fencing and treatment/colour.

- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

Reason - In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance its setting within the immediate locality in accordance with CLP16 of the Chesterfield Local Plan.

Retention of Soft Landscaping

13. The landscaping provided shall be retained and maintained as follows:
- a) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner;
 - b) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.
 - c) Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
 - d) All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Boundary Treatments

14. Concurrent with the submission of landscaping details as part of a reserved matters application full details of the boundary treatment to the northern boundary of the property adjacent to Avenue Road shall be submitted to and approved in writing by the local planning authority. The details which are subsequently agreed in writing shall be carried out as part of the development

and shall be completed prior to the development hereby agreed being first occupied / brought into beneficial use and shall be retained as such thereafter.

Reason - To ensure a satisfactory boundary treatment to the site in the interests of visual amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Access Road

15. Prior to any other operations being commenced the existing vehicular access onto Avenue Road shall be increased to 6 metres wide (in accordance with the approved plans), laid out (no steeper than 1:14), constructed and provided with pedestrian inter-visibility splays of 2m by 2m on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility above 0.6m shall be provided within the area of such splays. There shall be no gates or other barriers on the access / driveway.

Reason - To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

Electric Vehicle Charging Infrastructure

16. Electric Vehicle Charging Points (EVCPs) shall be provided for at least 2 no. car/van parking spaces together with passive provision to be made available for the remainder of the site so that spaces are capable of being readily converted to EVCPs in the future. The EVCPs shall be available for use concurrent with the first occupation of the building and which shall thereafter be retained and maintained operational for the lifetime of the development.

Reason - In the interests of reducing emissions in line with Policy CLP22 of the Adopted Local Plan 2020.

Cycle Parking

17. Concurrent with the submission of landscaping details as part of a reserved matters application, a scheme for secure cycle parking (10 racks) on the site shall be submitted to and approved

in writing by the Local Planning Authority. The cycle parking to be provided shall be secure, in an overlooked, lit location with protection from weather and shall be provided concurrent with the first occupation of the building and thereafter retained and maintained operational for the lifetime of the development.

Reason - In the interests of reducing emissions in line with Policy CLP22 of the Adopted Local Plan 2020.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
3. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under 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. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply

that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on.

6. It should be noted that where SUDS are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.
7. 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.
8. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with loose material (i.e. unbound chippings or gravel.) In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
9. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished 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. 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. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Mr J Adams, Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Council's website, relevant forms are available via the following link: <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx>

12. In accordance with the ecological/biodiversity enhancement condition measures shall include but shall not be limited to:

- Bird/owl/bat boxes
 - (Locating your nestbox: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
 - You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
 - The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.
 - Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

- (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
- Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.
- Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.

Species	Potential Enhancement Measure	Notes
Wildflowers	<p>Native wildflower meadow areas: as an alternative to amenity grassland.</p> <p>Wildflower verges.</p>	<p>Wildflower meadow can be added where there is grassed verge / communal garden space as well as within residential gardens or as part of wider landscaping schemes.</p> <p>Advice for creating and maintaining a wild patch is available on the Wildlife Trust website and through Flora Locale.</p>
Birds	<p>Bird Boxes and other nesting features: (such as stone ledges and wooden cladding).</p> <p>Native species planting and boundary features: Berry</p>	<p>Particularly where adjoining natural areas such as woodland, areas of priority habitat and the river and canal environment. For guidance on installing bird boxes including minimum height see: https://www.bto.org/how-you-can-help/providing-birds/putting</p>

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

This page is intentionally left blank

Item 6**CONVERSION OF FORMER HOTEL TO FORM 4 DWELLINGS (REVISED PLANS RECEIVED 26/06/2022) (DESCRIPTION OF DEVELOPMENT UPDATED 04/07/2022) AT 1 – 3 COBDEN ROAD, CHESTERFIELD, DERBYSHIRE, S40 4TD FOR MR P SOBTI.**

Local Plan: no allocation

Ward: Brockwell

Planning Committee Date: 30th August 2022**1.0 CONSULTATIONS**

Ward Members	No comments received.
Local Highway Authority	Comments received – see report
Strategic Planning	Comments received – see report
Environmental Health Officer	No objections - Conditions recommended for noise, lighting and air quality.
Urban Design Officer	Concerns expressed however resolved by amended plans – see report
CBC Design Services (Drainage)	site is not shown to be at risk of flooding – no objection.
Representations	1 representation received – see section 7 of the report.

2.0 THE SITE

2.1 The site the subject of the application is situated at the junction of Cobden Road and Cross Street, approximately 225m from the boundary of Chesterfield Town Centre. The building was formerly

known as the Abbeydale Hotel but has since been converted into a single unit of residential accommodation.

- 2.2 The property was originally built for a residential use, which was subsequently converted into a hotel and finally converted back into residential accommodation, and sits across 2 storeys. It is finished in white render and has been subject to a number of alterations. The slate roof takes a dual pitched form with side gables, with a cross gable to the southern extent of the building which provides a small extent of second floor accommodation. There are stone lintels and sills to a number of the windows. The property has previously been subject to extension and alteration.
- 2.3 The property includes a rear parking area accessed from Cross Street which also provides external rear amenity space. There is garden space to the front of the property facing onto Cobden Road. There is an additional access to the north of the property between the application site and no. 5 Cobden Road. The proposed scheme would utilise the existing vehicular access.
- 2.4 The application site rectangular in shape covering a total area of 0.954ha (954sqm). The building is positioned relatively close to Cobden Road with a minimum setback of 2.7m.
- 2.5 Cobden Road and the surrounding area is predominantly a residential area characterised by 2 storey Victorian properties with a mix of terraced and semi detached. To the south of the application site sits the recently completed development on the former Chesterfield football club site. Immediately to the east of the application site is St Mary's Catholic Primary school.



© Google Maps, 2022



Site Location Plan ©



Site photographs:

Rear of building looking north west ©

Front of building, looking north east ©

3.0 SITE HISTORY

3.1 CHE/0687/0341/FUL – Change of use to private dwelling and guest house

CONDITIONAL PERMISSION: 19/08/1987

3.2 CHE/04/00694/FUL – Extension to ground floor bedroom at rear

CONDITIONAL PERMISSION: 27/09/2004

3.3 CHE/05/00332/FUL – Extension to dining room

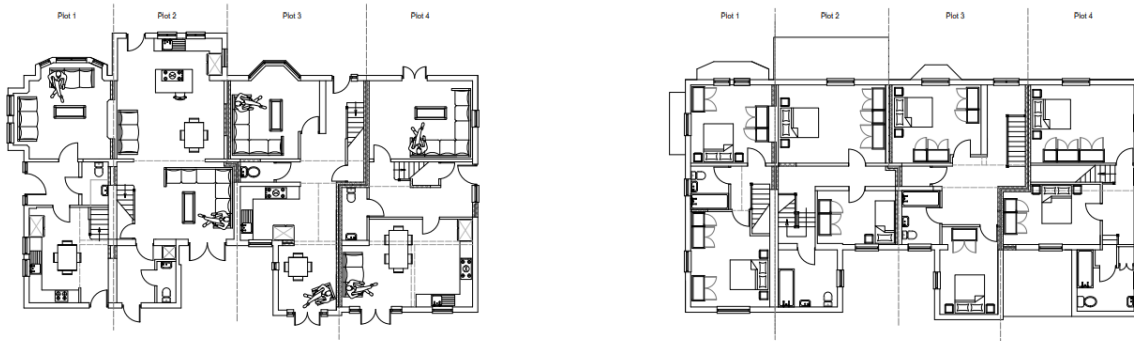
CONDITIONAL PERMISSION: 20/06/2005

3.4 CHE/17/00674/RET – Retrospective consent for installation of French doors instead of window in one of the bedrooms, single opening door instead of window in smaller kitchen, removal of existing fence and replacement with 5ft fence and gate added (extension of fence) to close bin area - the entrance to car park had small brick L-shape fence- the small part inside car park was removed.

CONDITIONAL PERMISSION: 23/11/2017

4.0 THE PROPOSAL

- 4.1 The application seeks planning permission for the conversion of the former hotel into 4 x 2-bedroom residential dwellings. Each of the dwellings would be served by a kitchen/dining room, living room and downstairs WC at ground floor level and 2no. bedrooms and family bathroom at first floor level.



Proposed ground floor and first floor plans ©

- 4.2 The conversion necessitates a re-arrangement of some of the window and door openings as follows:
- To the front (west) elevation: replacement of existing ground floor window to unit 3 and replacement with front door, installation of first floor window to unit 3 with lintel above to match existing, replacement of 1 no. ground floor window within unit 2 with 2 no. windows and front door.
 - To the north elevation: replacement of existing access door and window with front door to unit 4.
 - To rear (east) elevation: installation of rear access door to unit 1, replacement of existing portico to unit 2 with patio doors, removal of first floor window to unit 3, replacement of ground floor window to unit 3 with patio doors, replacement of ground floor window to unit 4 with rear patio doors.
 - To south elevation: replacement of first floor window with smaller window to upstairs hallway to unit 1.
- 4.3 The accommodation will provide the following (approximate) GIA to each dwelling:
- Unit 1: 82sqm
 - Unit 2: 106 sqm
 - Unit 3: 102sqm
 - Unit 4: 106sqm

- 4.4 The application form details that the window and door materials are to be upvc however it is unclear whether the materials referenced pertain to the original proposal for a detached dwelling in the rear garden area to the building.
- 4.5 Each of the dwellings would have access to exterior amenity space to the front/back (units 2 and 3) and to the front, back and sides (units 1 and 4). The proposal includes a small area of parking to the south west corner of the site which can be accessed by each of the units and there is on-street parking available via a residents parking scheme within the locality.
- 4.6 The proposal has been revised significantly as a result of discussion and negotiation with the applicant and their agent, following acknowledgement of the concerns raised by the case officer, in the main relating to overdevelopment of the site with respect of the proposed detached dwelling in the garden area and the lack of parking proposed. The revised proposal takes full account of the issues raised and the detached dwelling has been omitted from the scheme and a parking area to the south of the rear garden area introduced.

5.0 PLANNING POLICY

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

5.4 Chesterfield Borough Local Plan 2018 – 2035

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

5.5 National Planning Policy Framework 2021

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 8. Promoting healthy and safe communities
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

5.6 Supplementary Planning Documents

- 'Successful Places' Residential Design Guide

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 The principle of development should primarily be assessed through Policies CLP1 and CLP2 of the Chesterfield Local Plan. Within the considerations of those policies is that new development should be directed to areas within walking distance of a range of key services.

6.1.2 The application site is within a residential area and close to the boundary of Chesterfield Town Centre which provides a wide range of key services and access to public transport infrastructure. The site is within the recommended walking distances to schools, food stores and the town centre as established within the Successful Places Residential Design Guide SPD. The application site also falls within the built up area defined by Policy CLP3 of the Chesterfield Local Plan.

6.1.3 It is not considered that there are wider regeneration or sustainability benefits arising from the scheme but the proposal utilises existing development space, preserves land of environmental and agricultural value and meets the requirements with regards to proximity to services, the quality of walking routes and proximity of bus services.

6.1.4 On this basis, it is considered that the proposal accords with the Council's spatial strategy and the principle of development is therefore accepted.

6.2 Design, Appearance and Amenity

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 6.2.2 Initially the Councils Urban Design Officer expressed concerns regarding the scheme and inclusion of a new build dwelling on the frontage however amendments were made to remove the new build dwelling from the scheme to overcome the concerns. The new build unit created a number of issues relating to the amenity of the adjacent plots (1-4) and the character and appearance of Cross Street. The omission of Plot 5 resolves these matters and as such the Urban Design Officer raises no objection to the conversion of the former hotel itself to 4 dwellings.
- 6.2.3 The Urban Design Officer has however commented that the revised layout does not indicate provision for any off-street parking. Four parking spaces could potentially be located on the SE corner of the site, where the existing entrance to the site is currently located on Cross Street. This would still allow for adequate garden space for Plot 1. Given the demand for on-street parking in the vicinity the inclusion of some off-street spaces would be recommended. This is considered in the highways section below.
- 6.2.4 The proposed conversion of the existing building is considered to be acceptable in terms of its design and appearance. The proposal includes small-scale alterations to the exterior of the building to accommodate new and replace existing window and door openings to suit the proposed internal layout of the proposed dwellings, which is considered to be acceptable.
- 6.2.5 The surrounding area is characterised by residential properties set across 2 storeys and the proposed conversion of the building to dwellings is supported in terms of the wider character of the area. The conversion is not considered to be harmful to the character of the site or to the wider locality. The conversion will necessitate an aesthetic uplift to the exterior of the building which would be of benefit would serve to enhance the character of the site.
- 6.2.6 The proposed materials for the exterior of the building and to the new / replacement windows and doors are unclear within the application material and it is therefore considered appropriate to

impose a condition which requires the applicant to provide further information.

- 6.2.7 Policy CLP14 requires all development to have appropriate regard to the amenity of occupiers and surrounding residents. In respect of proposed amenity, as noted above each of the dwellings satisfies the floorspace guidance contained within the Nationally Described Space Standards for 2 bedroom accommodation. Each of the habitable rooms contains window openings to provide natural light and the proposed dwellings are dual aspect.
- 6.2.8 Each of the dwellings will have external amenity space which satisfies the recommended minimum areas as set out within the Successful Places Residential Design Guide SPD.
- 6.2.9 With regards to neighbouring amenity, it is not considered that the proposed conversion of the building will have any significant additional impact on the amenity of surrounding residents than the current use of the building. It is accepted that the conversion represents an intensified use of the building through conversion to 4 dwellings, however the density of development is considered to be acceptable within an edge of town centre context and is not considered to be unacceptable when taking into account the density of surrounding dwellings.
- 6.2.10 The windows to the north elevation of the building may result in an element of overlooking to no. 5 Cobden Road. The applicant's agent has confirmed that windows at first floor level can be obscured to minimise this risk and it is considered appropriate to secure this by condition. The proposal is therefore considered acceptable from an amenity perspective.
- 6.2.11 Overall the proposed development is considered to be appropriately designed to respond to the provisions of policies CLP14 and CLP20 of the Local Plan, NPPF and the wider SPD with regards to residential design and amenity.

6.3 Highways Safety

- 6.3.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety. The Local Highway Authority has raised no objections. In their response to the initial proposal the LHA accepted the principle of no parking being provided for the conversion element of the scheme.

- 6.3.2 However, a representation has been submitted which raises concerns regarding parking levels and a site visit has demonstrated that whilst on-street parking is available, the inclusion of parking provision within the scheme would be of benefit to both future occupiers and to surrounding residents.
- 6.3.3 On this basis, the applicant has revised the scheme to include 4 no. parking spaces to the south west corner of the site with turning space provided, which would retain the access provided into the site from Cross Street. The LHA has confirmed that although this is not considered to be necessary, there are no objections.
- 6.3.4 The Strategic Planning Team and Environmental Health Officer have requested that the parking provision in accordance with Policy CLP22 of the Local Plan. It is recommended that a condition be imposed to require the installation of an Electric Vehicle Charge Point to a parking space to satisfy the relevant policy requirement.
- 6.3.4 The proposed parking area can be accessed via the rear gardens to each of the units via a 1.8m walkway which also provides the opportunity for refuse to be transported as necessary on refuse collection day.
- 6.3.7 The proposal is therefore considered to be acceptable under policy CLP20 and CLP22 of the Local Plan on this basis.

6.4 Biodiversity and Landscaping

- 6.4.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 6.4.2 No information has been provided in respect of a proposed biodiversity enhancement at the site or to demonstrate a net gain in biodiversity. The proposal is a minor scheme and does not result in the loss of an existing species rich habitat area, rather converts an existing area of hardstanding into functional garden amenity space.

- 6.4.3 Nevertheless, some level of biodiversity net gain is necessary to accord with policy CLP16 of the Local Plan and the NPPF. It is therefore considered to be reasonable to impose a condition to secure a biodiversity net gain with explanatory details contained in a footnote to be addressed by the applicant.
- 6.4.3 The applicant's agent has confirmed that access to the front of the dwellings will be provided via existing and new gated path to the principal entrance doors in keeping with the existing, brick walling no greater than 0.75m above footpath level, however this is not shown on the revised drawings. In addition, the proposed parking area would benefit from benefit from landscaping and planting to soften the impact of parking within the site. It is therefore considered reasonable to impose a condition requiring a landscaping scheme and boundary treatment details to be submitted.
- 6.4.3 On this basis, and subject to compliance with conditions, the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

6.5 Water Efficiency and Drainage

- 6.5.1 Local Plan policy CLP13 requires all new residential developments to meet the optional Building Regulation water efficiency standard of 110 litres of water per occupier per day. It is therefore considered reasonable to impose a condition to satisfy the relevant policy requirements.
- 6.5.2 The Council's Drainage Team has requested that a condition be imposed to ensure that the site is developed with separate systems of surface water and foul drainage.

6.6 Developer Contributions

- 6.5.1 The site is situated within the Medium Community Infrastructure Levy (CIL) charging zone where residential development is subject to a charge of £50 per sqm (index linked).
- 6.5.2 As the building has been in previous use there is an opportunity to claim exemption from paying CIL if it can be shown that the building has been used for a period of 6 months during the last 3 years. It will be for the application to claim such an exemption by providing the necessary and appropriate evidence.

7.0 REPRESENTATIONS

- 7.1 The application was advertised for the standard required time period at both initial submission stage and upon receipt of revised plans. 1 representation has been received which raised concerns regarding the impact of no parking being provided within the site and the impact of the original proposal which included a detached dwelling to the south west corner of the site.
- 7.2 As noted above, the proposed detached dwelling has now been omitted from the scheme and an area of residents parking provided to the south west corner of the site, which is considered to overcome the concerns raised.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 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
- 8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

- 9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.
- 9.2 The Local Planning Authority has during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

10.0 CONCLUSION

10.1 Overall subject to conditions the proposal is considered to be acceptable in accordance with policies CLP1, CLP2, CLP14, CLP16, CLP20, CLP21 and CLP22 of the Local Plan.

11.0 RECOMMENDATION

11.1 That the planning permission be **GRANTED** subject to the following conditions:

11.2 Conditions

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

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

2. The development hereby permitted 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):
 - Site location plan, proposed site layout, proposed elevations and proposed floor plans (same sheet), drawing no. 2, 1:1250, 1:500 and 1:100 @ A1
 - Proposed drainage layout, drawing no. 4, 1:200 @ A3

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. Within 2 months of the development hereby permitted commencing, a scheme (including a programme of implementation and maintenance) to demonstrate a net measurable gain in biodiversity through the development, shall be submitted to and approved in writing by the Local Planning Authority. The net measurable gain shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework

4. Notwithstanding the submitted details, within 2 months of the development hereby permitted commencing, details for the treatment of all parts of 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 including species and planting density. The plan shall include indications of all existing trees, hedgerows and other vegetation on the land to be retained and detail measures for the protection of retained vegetation during the course of development, including details of ecologically beneficial landscaping to provide a biodiversity enhancement.
- b) proposed hardstanding surfacing materials and shall include elevational drawings of boundary treatments including materials, types of fencing/walling and treatment/colour.
- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

Reason – In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance its setting within the immediate locality in accordance with policy CLP16 of the Chesterfield Local Plan.

5. The landscaping provided shall be retained and maintained as follows:

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

the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

6. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

Reason - In the interests of safeguarding the privacy and amenity of the occupiers of surrounding properties in accordance with policies CLP20 and CLP14 of the Chesterfield Local Plan

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

Reason - In the interests of satisfactory and sustainable drainage in accordance with policy CLP13 of the Chesterfield Local Plan

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

Reason – To protect the water environment and in accordance with Policy CLP13 of the Chesterfield Local Plan

9. Prior to installation of any external lighting scheme for the site, a detailed scheme shall be submitted to the Local Planning Authority for consideration. The lighting scheme agreed in writing shall be fully implemented in accordance with the approved scheme before the use commences and retained as such thereafter.

Reason – To ensure that the development does not appear as an unduly prominent feature in the area and in the interests of residential amenity in accordance with policy CLP14 of the Chesterfield Local Plan

10. An Electric Vehicle Charging Point (EVCPs) shall be provided for one of the parking spaces with passive provision to be made available

for the remainder of the site so that spaces are capable of being readily converted to EVCPs in the future. Thereafter the EVCP shall be retained and maintained operational for the lifetime of the development.

Reason – In the interests of reducing emissions in line with policy CLP22 of the Chesterfield Local Plan.

11. Prior to the development hereby permitted being occupied, space shall be provided within the application site in accordance with the approved application drawings for the parking and manoeuvring of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. The parking spaces and manoeuvring area shall be retained thereafter available for its designated use.

Reason – In the interests of providing adequate off-street parking provision in accordance with policies CLP20 and CLP22 of the Chesterfield Local Plan

12. Prior to the development hereby permitted being occupied the first floor windows to the north elevation shall be installed with obscure glazing to a minimum of Pilkington Level 4 and with no opening part being less than 1.7m above the internal floor level. Once installed the obscure glazing shall be retained as such thereafter.

Reason – To safeguard the privacy and amenity of the occupiers of adjoining properties in accordance with policies CLP14 and CLP20 of the Chesterfield Local Plan.

11.3 Informative Notes

1. The Local Planning Authority have considered this application in a positive and proactive way in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
3. 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.

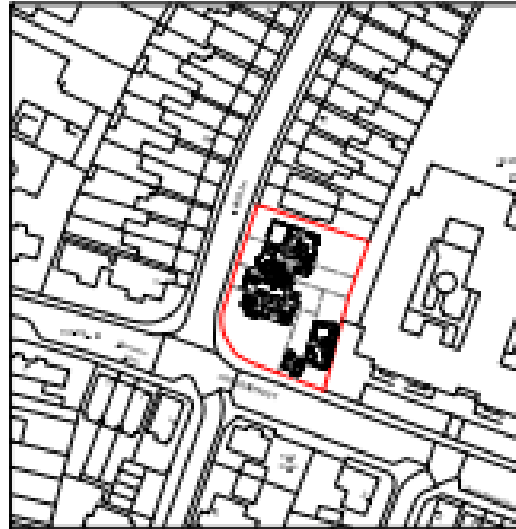
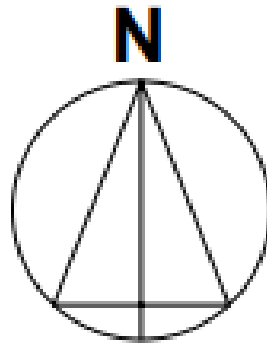
Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

4. In accordance with condition 3, appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
 - bird/owl/bat boxes
 - (Locating your nest box: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
 - You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
 - The number of nest boxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.
 - Do not place your nest box close to a bird table or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)
 - (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
 - biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats
 - measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance

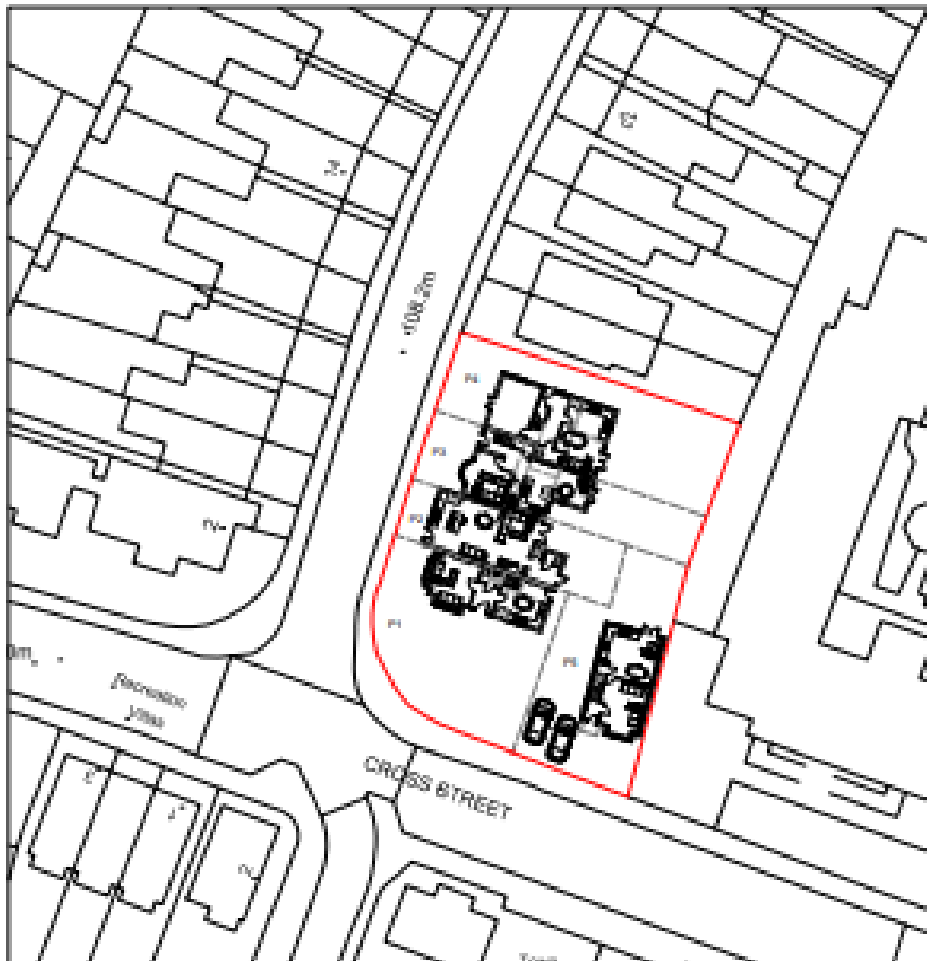
- holes in fences and boundary treatments to allow species such as hedgehog to move across the site
- bee bricks

This page is intentionally left blank

Site Location Plan



Proposed Site Layout



This page is intentionally left blank

Item 7

Case Officer: HF

Application No: CHE/21/00171/FUL

Erection of one pair of semi-detached dwellings at 33 Boythorpe Avenue for Ms Claire Hancock

Local Plan: not allocated but within Built Up Area

Ward: Holmebrook

Committee Date: 30th August 2022

CONSULTATIONS

Coal Authority – comment made see report

CBC Urban Design Officer – comment made see report

CBC Design Services – not shown to be at risk of flooding. See report

Highway Authority – No objections to the proposal subject to the conditions – see report.

Derbyshire Wildlife Trust – Comment received – see report

Representations – Three received including two with petitions containing 9 signatories.

2.0 THE SITE

2.1 The application site is a triangular parcel of land fronting Boythorpe Avenue close to the junction with Central Avenue at Boythorpe.



2.2 The site is largely set below the level of Boythorpe Avenue. There is a footpath route to the side of the site known as Walton Walk leading to Minimum Terrace and further along to Dock Walk, although this is not a definitive Right of Way.

2.3 Site Images:

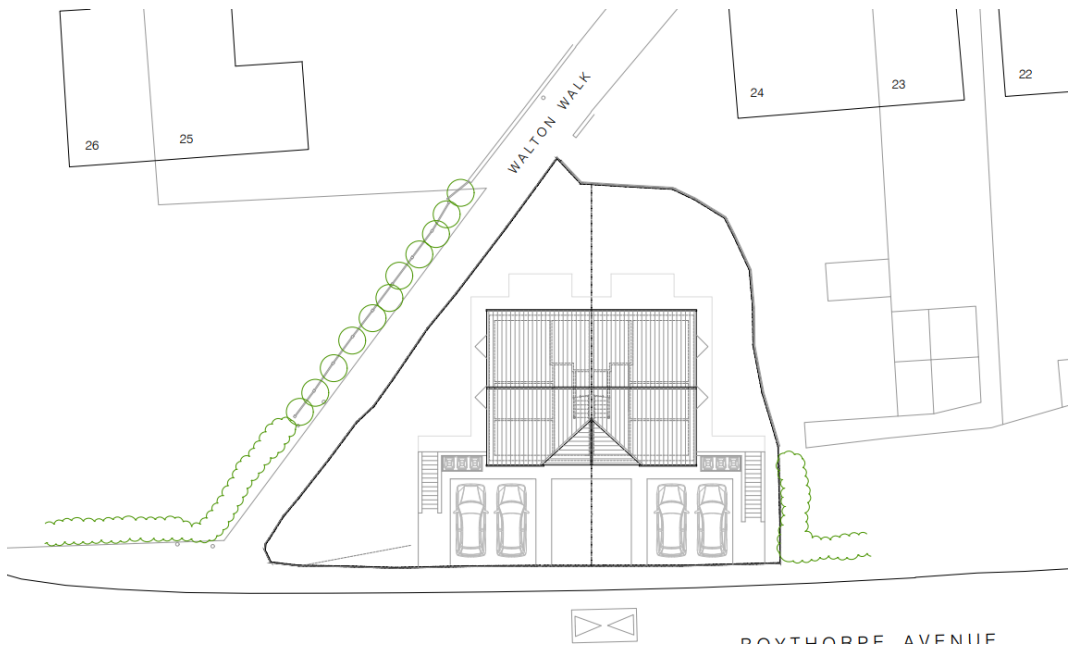


3.0 **SITE HISTORY**

- 3.1 CHE/17/00213/FUL Development of vacant land to form new two bedroom bungalow and detached garage – Conditional Permission 03.08.2017
- 3.2 CHE/15/00711/FUL Erection of a pair of 3 bedroom semi detached dwellings – Conditional Permission 23.12.2015
- 3.3 CHE/09/00159/FUL Erection of pair of 3 bed semi-detached dwellings with 2-storey frontage and 3-storey rear. Re-submission of CHE/08/00791/FUL – Conditional permission 02.06.2009
- 3.4 CHE/08/00791/FUL Erection of pair of three bedroom semi detached dwellings, with two storey frontage and three storey rear – Refused 18.02.2009
- 3.5 CHE/04/00644/FUL Proposed pair of semi-detached dwellings – Conditional Permission 12.11.2004

4.0 **THE PROPOSAL**

- 4.1 Planning permission is sought to erect a pair of 3 bedroom semi detached dwellings. The dwellings are to be single storey to the site frontage and then using the topography of the land will be two storeys to the rear. Parking is proposed to the frontage of the site with 2 spaces for each unit.
- 4.2 Proposed site plan:

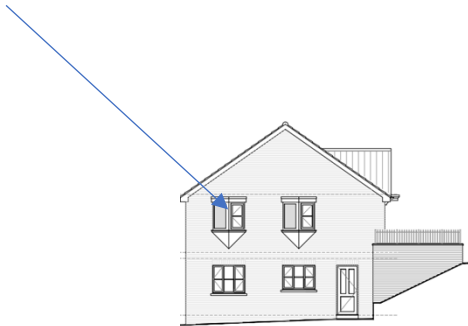


Site sections showing the land level change:

Half obscured oriel window



Proposed Section Through Driveway



Proposed elevations:



Proposed Front Elevation

F

High level windows

Obscure glazed window.



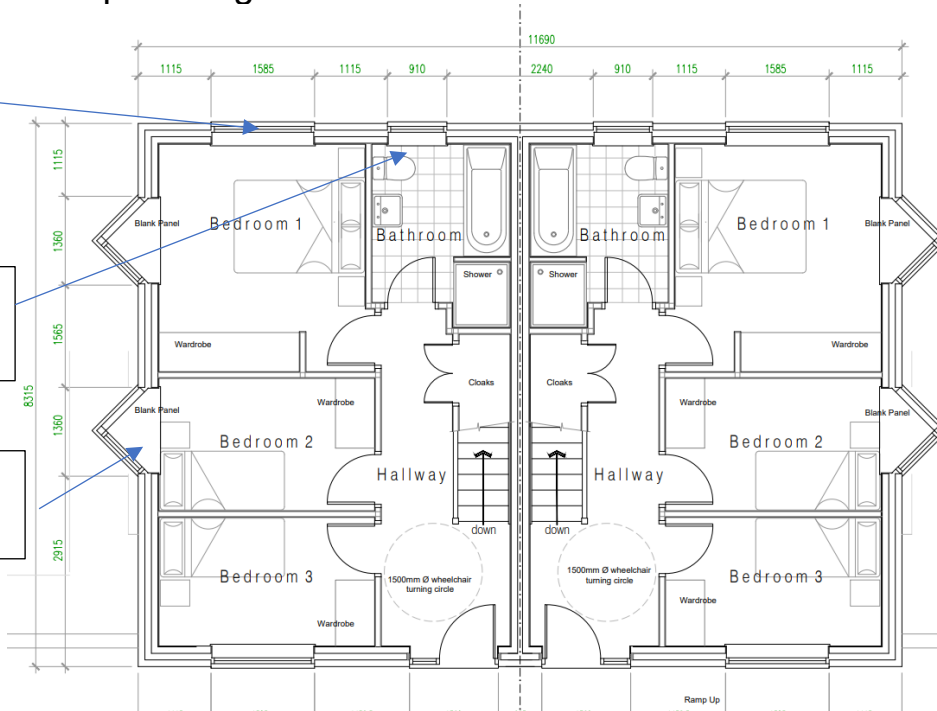
Proposed Rear Elevation

Floor plans – ground floor:

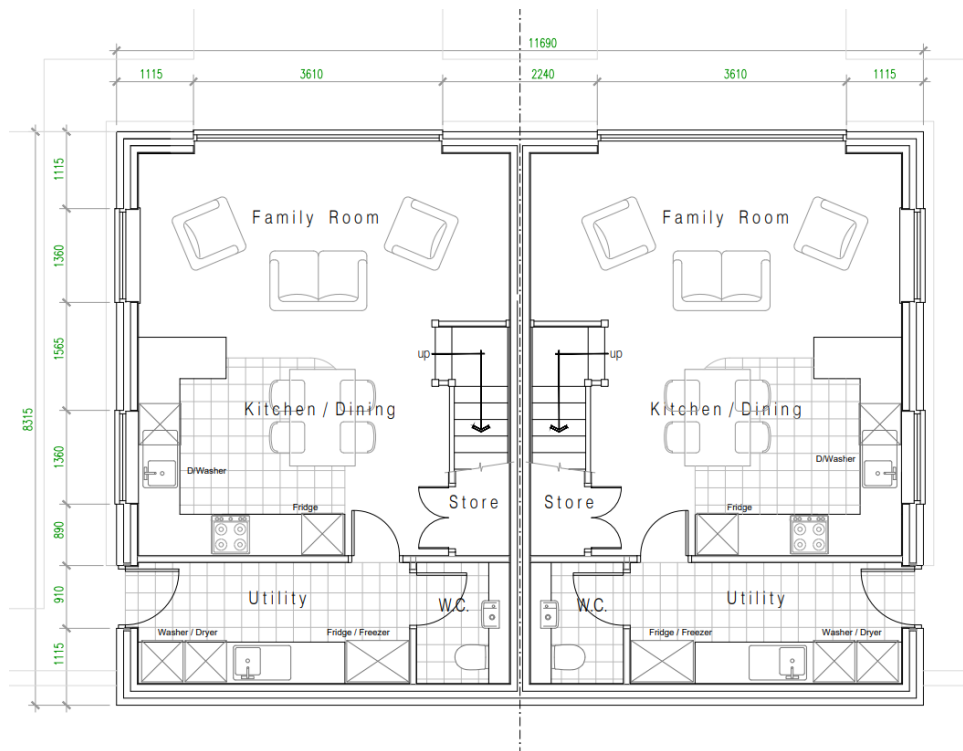
High level windows

Obscure glazed window

Half obscured oriel window



Lower Ground floor:



5.0 **CONSIDERATIONS**

5.1 **Planning Policy**

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

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

CLP1 Spatial Strategy (Strategic Policy)
 CLP2 Principles for Location of Development (Strategic Policy)
 CLP4 Range of Housing
 CLP13 Managing the Water Cycle
 CLP14 A Healthy Environment
 CLP16 Biodiversity, Geodiversity and the Ecological Network
 CLP20 Design
 CLP22 Influencing the Demand for Travel

5.3 **Other Relevant Policy and Documents**

National Planning Policy Framework (NPPF):

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 5. Delivering a sufficient supply of homes
- Part 8. Promoting healthy and safe communities
- Part 9. Promoting sustainable transport
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

Supplementary Planning Documents

Successful Places' Residential Design Guide

5.4 Key Issues

- Principle of development
- Design and appearance
- Impact on residential amenity;
- Highway safety
- Biodiversity
- Ground conditions
- Drainage

5.5 Principle of Development

- 5.5.1 Policies CLP1 and 2 of the Adopted Local Plan set out the strategic approach to the siting of sustainable development. CLP1 states that the overall approach to growth will be to concentrate new development within walking distance of a range of Key Services, focussing on areas of regeneration. This is reiterated in Policy CLP2 where it states that; Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the requirements which are set out in order of priority beginning with the requirements of CLP1.
- 5.5.3 In considering this site against the criteria in CLP1, as the site is surrounded by existing housing and within walking distance of a range of local services and facilities including public transport routes, it is considered that the proposal is sustainably located and meets the requirements of policies CLP1 and 2. Therefore, the principle of residential development in locational terms is appropriate in this case.

It is also noted that planning permission was previously granted for two three storey dwellings on the site and separately permission has been granted for a bungalow. All of the earlier permissions relating to the site have expired.

5.6 Design and Appearance

- 5.6.1 Policy CLP20 of the Adopted Local Plan seeks that; All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context, that development will be expected to a) promote good design, and b) respect the character, form and setting of the site and surroundings.
- 5.6.2 The CBC Urban Design Officer has commented on the proposal:
The revised plans provide a block plan which shows the design in context and in relation to the neighbouring houses and gardens. The amended design has removed the first floor from the previous proposal. This now results in a two-storey split level design, in order to span the steep change in levels across the site (previously 2-storey was proposed at the front with 3-storey at the rear). The design of the bedroom window openings has also been revised to limit overlooking and loss of privacy. The dwellings would appear as a single storey building as viewed from Boythorpe Road, but two storeys as seen from Walton Walk, which bounds the NW side of the site. The reduction in the height of the proposal would improve the relationship with the adjacent property to the NE (No. 24 Minimum Terrace). The amended design would reduce the scale and height of the building relative to the neighbouring garden and property. Nevertheless, its height and position would appear prominent as experienced from the neighbouring garden (east) and some overshadowing of this adjacent property/garden could arise at certain times of the year/day. Although, this would be moderated to a limited extent by the presence of existing trees within the neighbouring garden, this relationship would be further improved through the introduction of a hipped roof design which would lessen the scale and presence the new houses and reduce the potential for shadowing. It is noted that the two previous permissions for this site have been approved in the past (15/00711/FUL – One pair of 3-bed semi-detached houses & 17/00213/FUL – One 2- bed bungalow). These were located closer to the neighbouring property and, arguably would result in a greater impact than the current proposal, although these

permissions are now expired.

- 5.6.3 This is an open parcel of land within a built-up area which is of a differing layout when compared with the terraced housing to the north, facing towards the north, and the red brick post war housing located to the south, and which faces south fronting onto Boythorpe Avenue. This application site had some similarities with the plot to the east which contains a pair of semi-detached houses of a similar age to the terraced row. To the opposite end of Boythorpe Avenue there is a detached bungalow however this site does not have the change in levels experienced at the application site. Therefore, the site does differ from the standard characteristics of the area.
- 5.6.4 Within this context the proposal is to erect what will appear to the site frontage as a single storey pair of dwellings and to the rear will be two storey utilising the steep gradient falling from Boythorpe Avenue. The provision of a single storey unit as viewed from Boythorpe Avenue is considered to be an appropriate design concept for this constrained site. Whilst there are constrained views of the entire side of the building it is considered that the two-storey gable present to the edge of Walton Walk is appropriate in this context subject to an appropriate selection of materials via condition.
- 5.6.5 The design has had to reflect the constraints of the site utilising oriel type windows to the side elevations and high-level windows to the rear to minimise overlooking. These responses to the challenges of the site are considered to result in an overall design concept that is appropriate to the site and will effectively enhance the currently vacant parcel of land.
- 5.6.6 The proposed parking area will be to the front of the site and this street frontage parking is again considered to be appropriate in visual terms. The parking platform will result in a large retaining wall to the garden area of each property which can be visually mitigated with planting and through appropriate choice of brick. The changes in level on site dictate the need for retaining structures which it is considered have been appropriately designed in this case.
- 5.6.7 To ensure an appropriate scheme for the whole site a condition regarding materials for the building and boundary treatments and for any hardstanding will need to be imposed.

5.6.8 On this basis it is considered that subject to conditions the revised scheme meets the requirements of Policy CLP20 in terms of the design response.

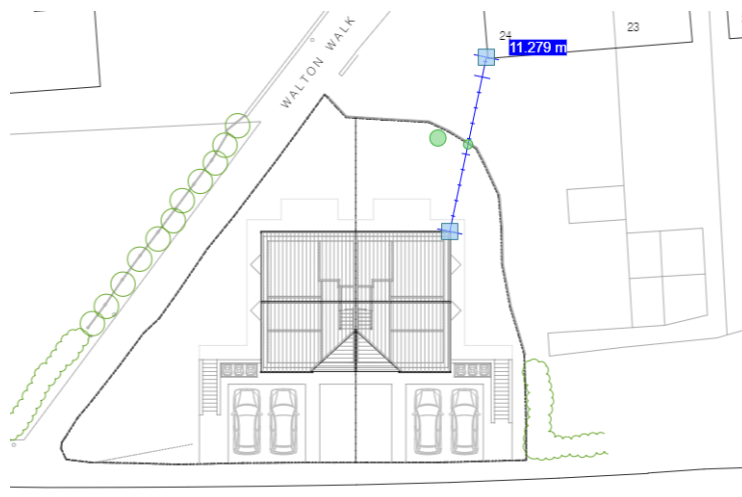
5.7 **Impact on Residential Amenity**

5.7.1 Policy CLP14 of the Local Plan sets out that; All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts.

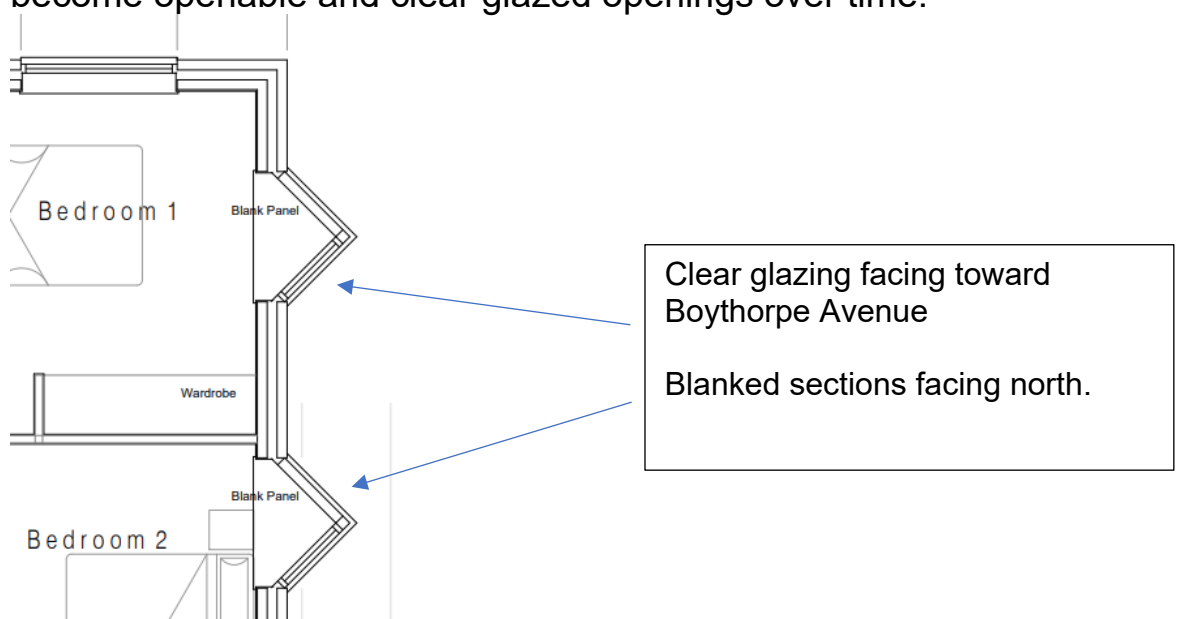
5.7.2 The comments of the Council's Urban Design Officer are referred to as set out in the Design section above.

5.7.3 Concern has been raised regarding the impacts of the development upon the neighbouring properties particularly in terms of loss of sunlight and overlooking. To address these concerns the design of the scheme has been substantially amended; introducing the partially obscured oriel windows to the side elevation, high level windows to the rear and the reduction of a storey in height to what is now single storey to the frontage and two storey to the rear.

5.7.4 Due to the constraints of the site there will be a close relationship between the proposed and existing dwellings. Corner to corner the closest distance between the two properties will be approximately 11.2m. with the window to window distance being a little greater than this. However, the relationship between the windows from rear to rear elevation is off set at an angle due to the site location as is shown on the image below:



- 5.7.4 The upper floor windows to the rear elevation of the proposed housing will serve a bedroom and bathroom to each dwelling with the bathroom window being obscurely glazed and high-level windows serving the bedrooms. The details of these windows is to be secured via condition to ensure any overlooking is appropriately mitigated.
- 5.7.5 Given the off-set relationship between the dwellings and the provision of appropriate boundary treatments such as fencing or a hedge, it is considered that the lower ground openings will not result in undue overlooking impacts.
- 5.7.6 In terms of the loss of sunlight, whilst there may be some impact from the development, the reduction in height of a storey from the original scheme is considered to be appropriate mitigation. The impacts will not be so severe that a refusal of planning permission would be warranted. It should also be noted that planning permission has previously been granted for the erection of a pair of two and three storey housing on the site. Whilst these permissions have expired they do need to be considered in this case as to whether the impacts are reasonably acceptable. The suggestion by the Urban Design Officer to hip the roof has not been pursued given the acceptable nature of the amended scheme.
- 5.7.7 The provision of oriel windows with a blanked panel to the ground floor windows will ensure appropriate light and ventilation to the proposed dwellings whilst also protecting the amenity of the existing residents. These details are to be secured via condition to sure these do not become openable and clear glazed openings over time.



- 5.7.8 It has also been noted that the parking area will result in headlights impacting the residents of the properties to the north. Whilst the parking would be largely screened by the proposed housing it would also be screened by the retaining boundary treatment which is brick to approximately 0.6m in height with railings above. However, increasing the brick element to 1m in height via condition will ensure that headlights are appropriately screened.
- 5.7.9 Subject to conditions the proposed dwellings are considered to result in appropriate amenity impacts in accordance with policy CLP14 of the Adopted Local Plan.

5.8 Highway Safety and Parking Provision

- 5.8.1 The main aim of the Local Plan is to encourage sustainable travel through walking and cycling. Policy CLP22 of the Local Plan encourages more sustainable travel. The policy goes on to note that; Development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is in line with paragraphs 108 to 110 of the NPPF.
- 5.8.2 The proposal will provide 2 parking spaces for each dwelling measuring 5m in length. the parking spaces are below the standard requested by DCC at 5.5m in length but above the recommended parking length set out in the Residential SPD at 4.8m and are therefore acceptable.
- 5.8.3 The Highway Authority has raised no objections subject to conditions including maximum achievable visibility splay across the site frontage. The Highway comment regarding bins is noted, however there is an area noted on the plan adjacent to the parking bays for the storage of bins. On this basis the proposal is considered to be acceptable in terms of highway safety impacts in line with policies CLP20 and 22 of the Adopted Local Plan.

5.9 Biodiversity, impact on protected species, enhancement and Trees

- 5.9.1 Policy CLP16 of the Adopted Local Plan requires that development will;
- protect, enhance and contribute to the management of the borough's ecological network of habitats, protected and priority

- species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a local wildlife site or priority habitat; and
- avoid or minimise adverse impacts on biodiversity and geodiversity; and
- provide a net measurable gain in biodiversity.

5.9.2 At the request of Derbyshire Wildlife Trust an Ecological Survey of the site was carried out which concluded that Badgers are known to be in the area but not to be using this site. The report also provided recommendations in relation to potential breeding birds and potential reptile habitat. It is noted that there are likely commuting bats in the area and therefore any lighting should be designed to minimise the impacts on bats. Enhancement of biodiversity on site can be achieved through planting and the provision of nesting boxes. Subject to conditions to secure the recommendations of the report and to agree a lighting scheme and enhancement measures, the proposal is considered to be acceptable in terms of biodiversity impacts.

5.10 **Ground conditions**

5.10.1 The application site is within the High-Risk Area in respect of former coal mining activity. Policy CLP14 of the Adopted Local plan requires that; Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:

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

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.

5.10.2 The Coal Authority has made comment on the application as follows: *We objected to the proposal in our previous consultation response letters of 22 March and 12 October 2021 due to the lack of a development specific Coal Mining Risk Assessment to identify and assess the risks posed to the proposed development by coal mining*

legacy. The applicant has now submitted a Further Coal Mining Risk Assessment Report (19 October 2021, prepared by Baker Barnett) in support of their planning application. The report indicates that a previous CMRA for the site produced by Baker Barnett concluded that recorded shallow mine workings associated with the Tupton Coal seam and the overlying Dogtooth Ironstone have the potential to affect surface stability at the site. As such, it indicates that recommendations were made to confirm the extent of the workings and check for voids by means of a borehole investigation. The report goes on to indicate that a borehole investigation was subsequently carried out by others at the site. It indicates that the investigation did not appear to encounter the recorded workings in the Tupton Coal seam or the Dogtooth Ironstone, but appears to have encountered broken ground at the horizon of the Cockleshell Coal seam, which lies above the Tupton seam. The report indicates that programme of grouting stabilisation works was then carried out. It highlights that whilst the grouting works may well have consolidated broken ground beneath much of the site, these remedial works do not appear to extend entirely across the footprint of the development now proposed. The submitted report advises that it should be possible to extend the drilling and grouting works to cover the full footprint of the proposed semi-detached houses and associated external works. However, it recommends that further investigations are required to inform any further remedial works and/or mitigatory measures necessary to address the risk posed by coal mining legacy affecting the site. It advises that the development is likely to require an engineered foundation solution in any case. The Coal Authority welcomes the recommendation for the undertaking of further intrusive site investigations.

The results of the investigations should be used to inform any further remedial works and/or mitigation measures that may be necessary to ensure the safety and stability of the proposed development as a whole. Conditions recommended.

The comments also note in regard to Mine Gas that; It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA.

- 5.10.3 Subject to the recommended conditions the proposal is considered to appropriately address the ground impacts of former coal mining activity.
- 5.10.4 In line with previous permissions on the land and to address the matter of potential Mine Gas a further condition to consider potential

contaminants is recommended. On this basis ground conditions have been addressed in line with Policy CLP14 of the Adopted Local Plan.

5.11 Drainage

5.11.1 Policy CLP13 of the Local Plan advises that; The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance. In addition, the policy notes that; Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.

5.11.2 The site is in an area of low flood risk. To address drainage matters on the site it is recommended that conditions are imposed in line with the comments made by the Council’s Design Services team. An additional water efficiency condition is also to be imposed. It is noted that no comments on this case have been received from Yorkshire Water. However, as statutory undertaker consents from YW will be required separately to the planning process. On this basis the proposal meets the requirements of policy CLP13 of the Adopted Local Plan.

5.12 Development Contributions and CIL Liability.

5.12.1 The proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium CIL charging Zone (£50) as set out in the Council’s Charging Schedule ([Community Infrastructure Levy \(CIL\) \(chesterfield.gov.uk\)](http://chesterfield.gov.uk)). The CIL charge is calculated as follows:

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

			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)	191	0	191	£50 (Medium Zone)	332	288	£11,009

6.0 **REPRESENTATIONS**

6.1 In response to the original and amended scheme three representations with two petitions containing 9 signatories have been received in objection to the proposed development. The concerns raised are summarized as follows:

- The proposal will impact on neighbours privacy.
- The buildings will look down on us from a great height and will block sunlight and warmth to our gardens and homes.
- Not happy with the location of the windows.
- The single bungalow previously approved would be much better.
- This will be intrusive.
- I do not want windows opening or looking down onto my garden.
- This will set a precedent for others to access their property via Boythorpe Avenue.
- The properties do not enhance and respect the surroundings.
- The plans for this site take up our time and cause us stress.
- Buyers for the site come and go leaving us with the ugly overgrown mess.
- I want to see the site tidy but not with enormous semi's.
- Having frosted windows would not improve the scheme as the building causes the problems.
- The frosted windows could be opened and frosting removed.
- There are some trees on the shared boundary but these are not a permanent solution for privacy.
- I do not want the new residents complaining about the boundary trees.
- Originally the trees gave us protection against the development but some were removed by earlier developers.
- I want to reduce the height of the trees to make a hedge but cannot do this due to these plans.
- Consider the safety of those using Walton Walk especially children.

- The proposed driveways are in a dangerous location, increased traffic will increase danger.
- The accesses are dangerous.
- Car headlights will be shining down from the parking spaces into our gardens.
- There will be noise and dust how will this be dealt with.
- Also concerned about the height of the windows on the ground floor due to the floor levels.
- The plans partly show my garden belonging to no.26.
- A large portion of land belonging to 25 will be affected.
- Someone could stand on the parking space and look into my property.
- The revised plans are not accurate.
- We need to be happy with what is being built and are not happy with this proposal.
- The plans do not include our conservatory.

6.3 One letter in support of the application received which notes:

- I like the proposed building appearance and feel that the application site is at present an overgrown eyesore.

6.4 These issues are addressed in the report above.

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.

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 2021 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.
- 8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

9.0 CONCLUSION

- 9.1 The proposed development whilst being located on a constrained site will re-use a vacant site and provide housing in a sustainable location. Matters of design and appearance and the impacts on neighbouring residents have been appropriately considered and as revised is considered to be acceptable. The proposal is considered to meet the requirements of Local Plan policies as set out above and is therefore recommended for approval subject to conditions.

10.0 RECOMMENDATION

- 10.1 It is therefore recommended 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.

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

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment or specific condition detail listed below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Proposed site plan 93-PL-12 Rev C received 04.07.2022

Proposed site plan 93-PL-03 Rev C received 04.07.2022

Proposed typical site section 93-PL-10 Rev D received 04.07.2022

Proposed finishes schedule 93-PL-09 Rev F received 04.07.2022

Proposed elevations 93-PL-108 Rev G received 04.07.2022

Proposed roof plan 93-PL-07 Rev G received 04.07.2022

Proposed ground floor plan 93-PL-06 Rev F received 04.07.2022

Proposed lower ground floor plan 93-PL-05 Rev D received 04.07.2022

Proposed floor plans general arrangement 93-PL-04 Rev G received 04.07.2022

Reason: In order to clarify the extent of the planning permission.

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

Reason: To address ground conditions arising from former coal mining activity in accordance with Policy CLP14 of the Adopted Local Plan.

4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing.

This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with Policy CLP14 of the Adopted Local Plan.

5. a) Prior to work commencing on site, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;
- b) Prior to works commencing on site, detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
- c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
- d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;
- e) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';
- f) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with Policy CLP14 of the Adopted Local Plan.

6. Before any works are commenced, full details of any works adjacent to Boythorpe Avenue shall be submitted for approval to ensure the stability of the highway is not affected.

Reason: In the interests of Highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

7. At the commencement of operations on site (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed and maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interests of Highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

8. Before any other operations are commenced (excluding condition 6 and 7 above), new vehicular and pedestrian accesses shall be formed to Boythorpe Avenue and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access to the extremities of the site frontages abutting the highway in both directions. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway level.

Reason: In the interests of Highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

9. The premises, the subjects of the application, shall not be occupied until space has been provided within the site curtilage's for the parking of residents vehicles (each space measuring a minimum of 2.4m x 5m), located, designed, laid out, constructed and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of Highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no fences, gates, walls or other means of enclosure shall be erected along the highway frontage of any dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason: In the interests of visual amenity and highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

11. The proposed access driveways to Boythorpe Avenue shall be no steeper than 1:15 for the first 5m from nearside highway boundary and 1:12 thereafter.

Reason: In the interests of Highway safety in accordance with policies CLP20 and 22 of the Adopted Local Plan.

12. Prior to the development hereby permitted commencing above slab level, a scheme (including a programme of implementation and maintenance) to demonstrate biodiversity enhancement through the development; including the provision of bird and boxes and a detailed landscaping scheme for the site, shall have been submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.

Reason: In the interests of achieving an enhancement in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 170 of the National Planning Policy Framework.

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

Reason: To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

14. A residential charging point shall be provided for the dwelling hereby approved 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 Policy CLP22 of the Adopted Local Plan.

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

Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with Policy CLP14 of the Adopted Local Plan.

16. Works on site shall be completed in accordance with the recommendations of the submitted ecological report dated 07.06.2021.

Reason: In the interests of the protection of habitat and wildlife in accordance with Policy CLP16 of the Adopted Local Plan.

17. Prior any external lighting installation a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority to ensure that wildlife implications are fully taken into account (including the need for reduced or no lighting in the more sensitive locations and directions; specifically, towards the railway line). The agreed lighting scheme shall be fully installed in accordance with the approved scheme prior to last occupation.

Reason: To minimise impacts on biodiversity and allow for enhancements in line with policy CLP16 of the Adopted Local Plan.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order;

- the side oriel windows as approved shall retain the blanked panel to the north facing side of the windows
- the ground floor bathroom windows to the rear elevation shall be and remain obscured glazed to Pilkington level 3 or above
- the ground floor bedroom windows to the rear elevation shall be and remain non-opening high level windows
- and no other windows or roof lights shall be installed within the rear or side elevations or rear roof slope of any dwelling hereby approved

All such works shall require the formal written permission of the Local Planning Authority on an application made to it.

Reason: To safeguard the amenity of neighbouring residents in accordance with policy CLP14 of the Adopted Local Plan.

19. Notwithstanding the submitted details, prior to works progressing above slab level a detailed scheme of boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the retaining wall having a brick element to 1m in height above the parking area with railing above. The agreed works shall be completed on site prior to first occupation.

Reason: To ensure an appropriate finished form of development in accordance with policies CLP14 and 20 of the Adopted Local Plan.

20. Details, including samples where necessary, of all materials to be used in the construction of the external surfaces of the proposed development; including all hard landscaping materials, shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

Reason: To ensure a satisfactory external appearance of the development in accordance with policy CLP20 of the Adopted Local Plan.

21. The site shall be developed using separate systems of foul and surface water drainage.

Reason: To ensure appropriate drainage provision in accordance with policy CLP13 of the Adopted Local Plan.

22. Prior to the commencement of development infiltration tests of the subsoils shall be carried out and sizing calculations provided, to ensure that soakaways are suitable for use at this site. The soakaways should be designed in accordance with BRE Digest 365 to ensure that no flooding occurs during a 30-year storm, as a minimum.

Reason: To ensure appropriate drainage provision in accordance with policy CLP13 of the Adopted Local Plan.

23. No materials or machinery shall be brought onto the site, until a 2 metre high fence of Weldmesh securely attached to scaffolding poles inserted into the ground has been erected in a continuous length, one metre beyond the crown spread of the trees to be retained (or such other fencing line as is agreed in writing with the Local Planning Authority). The fencing must remain throughout the period of construction and no materials or equipment shall be stored, no rubbish dumped, no fires lit or any excavation or changes in level take place within the fenced area.

Reason: To protect trees during the construction period and in the interests of visual amenity in accordance with Policy CLP16 of the Adopted Local Plan.

Informatives:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to design, ecology and ground conditions in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
3. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the

Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.

4. Highway Authority: In addition to the above conditions, the following notes should be appended to any consent for the applicant's information:
 - a. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
 - b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
 - c. The Highway Authority recommends that the first 5m of the proposed accesses / driveways 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 landowner.



DJP Architectural Design

This drawing is copyright and shall not be reproduced nor used for any other purpose without written permission. This drawing must be read in conjunction with all other related drawings and documentation. It is the contractor's responsibility to ensure full compliance with the Building Regulations. Do not scale from this drawing, use figured dimensions only. It is the contractor's responsibility to check and verify all dimensions on site. Any discrepancies to be reported immediately.
 IF IN DOUBT ASK.
 Materials not in conformity with relevant British or European Standards/Codes of practice or materials known to be deleterious to health & safety must not be used or specified on this project.



THE SITE

Land Adjacent:
 Boythorpe Avenue
 Chesterfield
 Derbyshire
 S40 2QE

CLIENT

RTH PROJECTS
 BOYTHORPE AVENUE
 CHESTERFIELD

PROJECT

DEVELOPM'T PROPOSAL
 SEMI-DETACHED
 DWELLING HOUSE

TITLE

SITE LOCATION PLAN /
 RED LINE BOUNDARY

SCALE 1:200 / 1:1250 @ A3

This page is intentionally left blank

ITEM 8

Case Officer: EC

Application No: CHE/22/00272/FUL

**ERECTION OF ELECTRIC VEHICLE CHARGING STATION WITH
ANCILLARY USES INCLUDING RETAIL AND FOOD AND DRINK WITH
ASSOCIATED ELECTRICAL INFRASTRUCTURE, CAR PARKING AND
LANDSCAPING ON LAND AT ENTERPRISE WAY, DUCKMANTON,
CHESTERFIELD FOR GRIDSERVE SUSTAINABLE ENERGY LTD**

Planning Committee Date: 30th August 2022

1.0 **CONSULTATION RESPONSES**

Ward Members:	No comments received
Strategic Planning	The proposed development is likely to be acceptable in principle subject to conditions restricting floorspace, improved walking/cycling provision, biodiversity net gain. Elements of the proposed development are likely to be CIL liable.
Chesterfield Civic Society	No comments received
Conservation Officer	No comments received
Historic England	No comments required
DCC Archaeology	The development area has previously been terraced into the underlying slope removing part of Old Peveril Road and suspect any archaeology with it. No impact from the development on buried archaeology
Yorkshire Water	Submitted Flood risk and drainage strategy is acceptable, condition recommended
Lead Local Flood Authority	No comments received
Environment Agency	No comments received

Design Services Drainage	Comments made during application process on calculations, amendments made to strategy and supporting information provided. No further objections.
Local Highways Authority (DCC)	No objections subject to conditions
National Highways	No objection. Informative note for applicant regarding signage (signage does not form part of the application at this stage)
Environmental Health	No comments received
Derbyshire Constabulary	Requested details regarding tethering arrangements, security and cctv coverage
Derbyshire Wildlife Trust	Conditions recommended including an ecological enhancement plan and compliance condition for work in accordance with the revised appraisal
Tree Officer	No objections subject to conditions
Economic Development	Supportive of application, recommended a local labour/supply chain condition be agreed
North East Derbyshire Council	No comments – consideration of updated Design Framework required
Bolsover District Council	No objections
Representations	No representations received

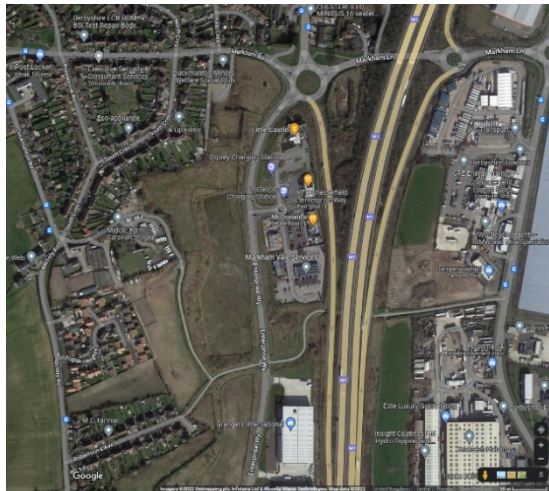
2.0 THE SITE

- 2.1 The site the subject of the application is a vacant parcel of land situated within Markham Vale. The plot is located to the west of Enterprise Way and comprises of part of the plot known as ‘Plot 7’ in the Markham Employment Growth Zone (MEGZ). The red line boundary of the application site is approximately 1.28 hectares in

area overall with the build area for the development occupies approximately 0.62 hectares (6,263 sq. m)

2.2 The application site occupies an elevated position above Enterprise Way. The site was previously cleared and regraded to create a level plateau development plot as part of the Markham Vale scheme with strategic landscaped embankments to the east and west. The settlement of Duckmanton is located to the west/north west of the site on a plateau with a landscaped escarpment forming the boundary to the application site.

2.3 To the east of the site is a mix of uses including a public house know as 'Little Castle', restaurants/coffee shops with drive thru facilities including KFC, McDonalds and Costa Coffee and a fuelling station operated by Euro Garages. The wider site encompasses the Markham Employment Growth Zone (MEGZ 'Markham Vale').



Aerial photograph of application site from Google ©



Extract of submitted site location plan ©





3.0 SITE HISTORY

Original outline consent Markham Vale (MEGZ) Regeneration Scheme

- 3.1 CHE/0502/0312 - Commercial (not major retail), office, industrial and warehouse development; new and altered road (including a new motorway junction); land reclamation, ground re-modelling, drainage, landscaping and re-use of railheads on 360 hectares of land in Bolsover, Staveley, Sutton-cum-Duckmanton on both side of the M1 in the vicinity of the former Markham Colliery, A632 (Chesterfield Road), Erin Road, Lowgates, Eckington Road, Hall Lane and the A619 south of Staveley at land off Chesterfield Road, Erin Road, Lowgates and Eckington Road – **CONDITIONAL PERMISSION (16.05.2005)**
- 3.2 CHE/13/00781/EOT - Extension of time to CHE/0502/0312 for 'Commercial (not major retail) office, industrial and warehouse development new and altered roads (including a motorway junction) land reclamation, ground re-modelling, drainage landscaping and re-use of railheads on 360 hectares of land in Bolsover, Staveley and Sutton-cum-Duckmanton on both sides of the M1 in the vicinity of the former Markham Colliery A632 (Chesterfield Road) Erin Road, Lowgates, Eckington Road, Hall Lane and the A619 south of Staveley and land off, Chesterfield Road, Erin Road, Lowgates, Eckington Road – **CONDITIONAL PERMISSION (12.05.2014)**

Relevant reserved matters and variations

- 3.3 CHE/13/00014/REM1 - Variation of conditions 7, 11, 20, 21, 47, 49 and 50 of CHE/0502/0312 - Markham Vale (MEGZ) Regeneration Scheme - conditions 12 and 23 removed from application by letter dated 6th June 2013 – **CONDITIONAL PERMISSION (24.09.2013)**

- 3.4 CHE/09/00778/REM1 - Variation of Condition 21 of Planning Permission CHE/0502/0312 (MEGZ) – CONDITIONAL PERMISSION (23.04.2010)
- 3.5 CHE/15/00291/REM1 - Variation of conditions 6, 7, 9, 13, 18, 20, 21, 31, 32, 34, 37 and 39 of CHE/13/00781/EOT - additional information received on 12/10/2015 and 15/10/2015 (including addition of condition 39) - CONDITIONAL PERMISSION (17.11.2015)

Applications in the immediate vicinity of site

- 3.6 CHE/20/00631/FUL - Erection of a fish and chip shop restaurant, Drive Thru and take away, car parking and associated access, landscaping and drainage works. Revised drawings received 30.11.2020 – CONDITIONAL PERMISSION (12.02.2021)
- 3.7 CHE/13/00539/OUT- Outline planning permission (with all matters reserved) for the proposed erection of retail units (Use Class A1), restaurant with drive thru facility (Use Class A3), and public house (Use Class A4), and associated infrastructure – CONDITIONAL PERMISSION (19.11.2013)
- 3.8 CHE/13/00846/REM - Application for approval of reserved matters for access, appearance, landscaping, layout, scale for public house/restaurant - Planning Application CHE/13/00539/OUT – CONDITIONAL PERMISSION (11.04.2014)
- 3.9 CHE/13/00322/FUL - Proposed erection of petrol filling station (sui generis) with ancillary retail floorspace (for the sale of convenience goods including food, cards and newspapers, stationary and a sandwich shop) and drive thru cafe/restaurant (Use Class A3), with associated car parking, access arrangements and landscaping works – CONDITIONAL PERMISSION (23.07.2013)
- 3.10 CHE/11/00566/FUL - Proposed erection of a restaurant with drive through facility, car parking and associated access, landscaping and drainage works – CONDITIONAL PERMISSION (01.11.2011)

4.0 THE PROPOSAL

- 4.1 The application proposes the erection of an of electric vehicle charging station with ancillary uses including retail and food and drink with associated electrical infrastructure, car parking and

landscaping. The premises would be operational 24 hours a day 7 days a week and create 9 full time jobs.

- 4.2 The GRIDSERVE Electric Forecourt® will include 30 electric vehicle charging points, including: 22 high powered charging units; 5 lower power charging units; and, 3 high powered HGV charging units, and associated roads/parking/electrical infrastructure. The development proposes a two storey structure with ancillary uses at first floor and parking with charging facilities at ground floor. The first floor incorporates a customer lounge, including a coffee shop, retail space, toilets, seating areas and workspace. The retail space at first floor would not exceed 244 sq. m.
- 4.3 The building has a contemporary design and external materials include vertical cladding. The main panel is a Kingspan Evolution Axis smooth panel, colour - Altaris dark copper metallic. Feature cladding panels to either end of the building, signage zones and areas below the windows will be clad using both Kingspan Evolution and Euroclad Vieo, colour Onyx to RAL 7016 (dark grey) and Moonstone to RAL 7035 (light grey). The glazing will be a frameless curtain walling system and a living green wall façade system will clad the fire exit stair to the west. A large solar array is planned on the roof space to reduce the electricity demand of the building.



Indicative visualisation of proposed building



Indicative visualisation of proposed site layout

4.3 Vehicular access to the site will be taken from Enterprise Way via a 'one-way' system, the entrance 'in' to the south eastern corner of the site and exit 'out' to the north eastern corner. Highway alterations will be required to the existing road. Dedicated pedestrian access will be provided at each access point. Cycle parking is indicated, however full details have not been provided.

4.4 The application proposes a detailed landscaping scheme covering 1333sqm of the site with a mix of new planting, trees, hedges and a living green wall to the western elevation of the building. Measures to enhance biodiversity have been considered and discussion regarding biodiversity net gain will be set out in the following sections.

4.5 Signage is indicated, however this does not form part of the submission and would require a separate application for advertising consent

5.0 PLANNING POLICY

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

5.4 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)

- CLP6 Economic Growth (Strategic Policy)
- CLP9 Retail
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel
- SS4 Markham Vale (Strategic Policy)

5.5 National Planning Policy Framework 2021

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 6. Building a strong, competitive economy
- Part 7. Ensuring the vitality of town centres
- Part 8. Promoting healthy and safe communities
- Part 15. Conserving and enhancing the natural environment.

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 In assessing the principle of the proposed development two key areas of policy are relevant in particular whether the proposal accords with the strategic allocation of Markham Vale as an employment location under policy SS4, and whether the retail element accords with the sequential and retail impact tests as set out in the NPPF and policies CLP8 and CLP9 of the adopted Local Plan.

6.1.2 The Council's Strategic Planning team reviewed the scheme and provided the following comments;

SS4 – Markham Vale

The proposed use is not covered by the existing outline permission for the Markham Vale development. Policy SS4 sets a number of criteria by which proposed uses that fall outside the outline should be considered:

“...permission for works or development not covered by the existing outline planning permission (and any subsequently approved amendments) will only be granted where they can demonstrate that they:

- a) *support the principal objectives of the Markham Vale development and the advanced manufacturing sector in particular; and*
- b) *support job creation; and*
- c) *meet the needs of businesses on the site; and*
- d) *minimise any adverse impact on the local and national highways network; and*
- e) *make appropriate provision for walking and cycling access to development in accordance with policy CLP22;*
- f) *have no unacceptable impacts upon heritage assets, their settings and key views outside of the Borough at Bolsover Castle and Sutton Scarsdale Hall, through submission of a Heritage Impact Assessment where appropriate; and*
- g) *accord with the approved design framework for the site; and*
- h) *meet the requirements of other relevant policies in the plan.”*

I note that National Highways have raised no objection, partly satisfying criteria (d).

The application site is part of Plot 7, which was envisaged in the masterplan as delivering a range of supporting uses for Markham Vale, including a Hotel/conference centre in the location of the application. The proposal would not therefore compromise the land available to deliver the core employment and commercial floorspace of Markham Vale and would expand the range of uses supporting the wider development.

There is also a benefit to expanding the range of EV charging facilities available in the borough, in accordance with national and local policies.

I am therefore satisfied that the principle of the proposal does not conflict with policy SS4, subject to consideration of detailed matters such as the submitted heritage assessment, appearance and the Markham Vale design framework.

Sequential and Impact tests

The site is within 500m of Duckmanton Local Centre. Policy CLP9 allows for local shops of up to 200sqm in such locations without having to satisfy the sequential and impact assessments, providing they are serving local day to day needs (which is not the case with this application, the applicant highlighting that the commercial uses are intended to be used by customers of the EV charging primarily).

The applicant has included consideration of the impact and sequential assessments in their Planning Statement, but I note have not submitted any assessment of alternative sites, as would normally be required for a sequential assessment, or any detailed analysis of potential impact on Duckmanton Local Centre. I will address whether this approach is suitable below.

There is some lack of clarity about the amount of commercial activity proposed, the application form refers to 815 sqm of development falling into use class 'E', whereas the Proposed Plans (drawing 8308-BOW-A0-ZZ-DR-A-0200) indicated 244sqm of Retail/Café space. The Planning Statement also indicates "The GEA of the building at first floor is 815 sq. m including the circulation cores. The retail space 244 sqm and the Lounge areas, car display and office pods occupying the remaining". Regardless, the development would exceed the local impact and sequential test thresholds. However this will need to be clarified, particularly in respect of any potential CIL liability (see below) and it is recommended that any permission be subject to a condition limiting the floorspace that can be used for CIL liable uses (including shops, food and drink, financial and professional services).

There are a range of other uses allowed for by use class E, that are not suggested by the application, but which it would be appropriate to restrict either because they have not been considered in sequential or impact terms, or because the nature of the use would require further detailed consideration, these being: the provision of medical or health services, principally to visiting members of the public; creche, day nursery or day centre; and indoor sport, recreation or fitness.

There is no need to restrict other uses covered by use class E, specifically office or light industrial use, as these would be appropriate uses in this location under Strategic Site allocation SS4.

I note that the applicant make reference to the Council's previous comments regarding application of the sequential and impact tests with regard to planning application CHE/20/00631/FUL for a drive thru fish and chip restaurant. I do not agree that the two situations are entirely comparable – the previous application was within a plot of land that was surrounded on all sides by similar commercial

uses, accessed from the same point, whereas the current application is a stand-alone scheme on a separate plot of land.

Nonetheless, I am satisfied by applicant's argument that the scale of provision is limited, and (recognising that uses should not be artificially disaggregated for the purposes of the tests) suitable to support the main EV charging use in this location, subject to the amount of floorspace being limited by condition as set out above.'

- 6.1.2 Further comments provided in respect of biodiversity net gain (CLP16), traffic and transport (CLP20 and CLP22), design and appearance (CLP20) and the community Infrastructure levy (CIL) will be covered in the following sections.
- 6.1.3 The Spatial Strategy (CLP1) seeks to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas. The application site is located with the existing Markham Employment Growth Zone (MEGZ) a key regeneration priority area SS4. It is acknowledged that the nature of the use will encourage car travel to the site to utilise the charging facilities, however, the proposal would accord with parts of CLP2 including c) helping to deliver wider regeneration benefits to the area including provision of dedicated facilities for electric charging for the highway network in accordance with national and local policies.
- 6.1.4 Consideration of Policy SS4 is required for development not covered by the existing outline consent. Policy SS4 requires all development within the Markham Vale area to contribute to the site as an area of strategic employment and planning permission will be granted for uses not covered by the outline on the basis that they meet requirements a to h. The proposal will result in the creation of jobs and provide additional facilities for existing businesses on the site (b and c), local community and the wider travel network. The proposal will not adversely impact the local and national highways network and opportunities are provided for cycling to the site (d and e). Due to the size and scale of the building it is not considered that the proposal will have an adverse impact on heritage assets, their settings or key views (f). The proposal will accord generally with the agreed design framework and meet other relevant policy requirement (g and h). The rest of the plot will remain available which further contributes to

development of this established business area (CLP6). The principle of development therefore accords with policy SS4.

- 6.1.5 The application site is located within 500m of Duckmanton Local Centre. Policy CLP9 allows for local shops of up to 200sqm in such locations without having to satisfy the sequential and impact assessments. The submitted Planning Statement includes consideration of the impact and sequential assessments however assessment of alternative sites any detailed analysis of potential impact on Duckmanton Local Centre has not been provided. Overall as the scale of provision is limited and necessary to support the main electric charging use the proposal is acceptable subject to a condition controlling the amount of floorspace.
- 6.1.6 The proposed development represents a sui generis use with ancillary E retail use at first floor in the building. The use is mixed and inherently linked. It is recommended that a condition be imposed requiring the development to remain primarily as a sui generis electric charging facility with ancillary E(a) and E(b) uses only, which restrict alternative uses within the E class use class which have not formed part of the sequential assessment.
- 6.1.7 The scheme supports the objectives and targets of the Government's 'Road to Zero Strategy' (July 2018), which include reducing emissions from the vehicles already on the UK's roads, and to drive the uptake of zero emission cars, vans and trucks. Chesterfield Borough Council declared a climate change emergency in 2019 and it therefore supportive of the principle of the development to facilitate the shift towards electric vehicles and provide the necessary infrastructure. The development requires site specific site conditions and infrastructure capacity to bring a new facility to the Borough. In addition the development also seeks to use only 100% renewable energy and includes solar array on the roof of the building
- 6.18 Subject to conditions the principle of development is considered to be acceptable in accordance with Local Plan policies CLP1, CLP2, CLP9 and SS4.

6.2 Design and Appearance of the Proposal

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding

area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials. Policy CLP20 also requires consideration of reducing CO2 emissions through the use of renewable energy.

- 6.2.2 The application site occupies part of the plot and the proposed building is set back from the highway frontage. The building has a contemporary design with frameless curtain wall glazing. The structure is two storey in scale with the main built form at first floor level with an open arrangement at ground floor. The submitted plans include a solar array to the roof space. Visibility of the solar array is considered to be limited due to the design of the building.
- 6.2.3 The building will be clad in Kingspan cladding in predominately dark grey with a smaller copper accent. The use of cladding reflects the materials of the surrounding units at Markham Vale although variation is noted in the immediate streetscene. The main palette is dark grey with copper detailing part of the corporate brand/colours for Gridserve.
- 6.2.4 Markham Vale design framework stipulates a palette of materials for developments on the MEGZ site and which generally promotes darker recessive colours allowing the brighter colours for trims etc. The application is a standalone full application, rather than a reserved matters submission, however it is the case that the proposal accords with the materials specifications in the Design Frameworks and there will be no adverse impact on the setting of the nearby Heritage Assets (Bolsover Castle and Sutton Scarsdale Hall).
- 6.2.5 The associated infrastructure required to implement the development will be enclosed by 3m timber fencing to create compounds for battery storage, substation, refuse/retail storage and related plant. The fencing will be relatively prominent however it is considered necessary to secure the associated infrastructure. A detailed soft landscaping plan has been provided to enhance the setting of the development and contribute to biodiversity enhancements (see section 6.7)
- 6.2.6 The design of the building is considered to be acceptable in the site context and accords with the provisions of Local Plan policy CLP20.

6.3 Amenity, Noise and Nuisance

- 6.3.1 Local Plan policies CLP20 and CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.
- 6.3.2 The nearest residential dwellings are located in Duckmanton to the west of the site with a significant separation distance and level change. The application is supported by a noise impact assessment which concludes that the levels of noise generated by the site at the closest residential dwelling would achieve the criteria where negligible noise impact is predicted. The proposal is therefore considered to be maintain acceptable levels of residential amenity. It is recommended that a condition controlling construction hours be imposed during the development build to prevent undue disturbance.
- 6.3.3 The application also includes a lighting scheme with lux contours. The spill from the site is indicated to be largely contained at the boundaries and is considered to be acceptable.
- 6.3.4 Derbyshire Constabulary raised no objections in principle and highlighted the risk associated with crime and disorder in respect of traditional service stations including queries regarding tethering, detail regarding security provision and unspecified CCTV system. guardianship brought by site staff isn't clear in hours of occupation, however if site is to operate on a 24 hour basis the risk is lessened – requested a technical plan for CCTV coverage and technical specification to support the application and controlled by condition. The Agent/Applicant provided a response to the consultee comments and confirmed that the charging units will be 'tethered', charging will be paid for by card reducing potential misuse and the site will be open 24/7 with staff on site. A CCTV system will be installed however it is not considered necessary for this to be approved by the LPA.
- 6.3.5 Subject to conditions the proposal is considered to accord with the provisions of policies CLP14 and CLP20 of the Local Plan.

6.4 Conservation and Historic Environment

- 6.4.1 The NPPF requires a positive approach to the conservation and enjoyment of the historic environment. Local Plan policy CLP21 requires consideration of designated heritage assets and their settings. Policy SS4 required development at Markham Vale to have no unacceptable impacts upon heritage assets, their settings and key views outside of the Borough at Bolsover Castle and

Sutton Scarsdale Hall, through submission of a Heritage Impact Assessment where appropriate (f)

- 6.4.2 The site is located to the west of Poplar Farmhouse (Grade II) which is screened from the development site by the existing built form. Bolsover Castle (Grade I) is located to the east of the site and Sutton Scarsdale Hall (Grade I) is located to the south. The application is supported by a heritage impact assessment with detailed assessment of the proposed development and impact on the identified assets.
- 6.4.3 The submitted heritage impact assessment reviews the significance of the assets and provides assessment of the long range views from the two sites. In both cases the application site is considered to be screened by the existing built form of large scale units at Markham Vale. The application site is not considered to contribute to the setting or significant of the assets and no harms has been identified. In addition, Historic England were consulted on the scheme and no comments to make.
- 6.4.4 The proposal therefore accords with the provision of the NPPF and Local Plan policies CLP21 and SS4.

6.5 Flood Risk and Drainage

- 6.5.1 Policy CLP13 requires consideration of sustainable drainage systems for major development unless it can be demonstrated that this is not appropriate in a specific location.
- 6.5.2 The site is in a low risk area in relation to risk of flooding (Flood Zone 1). As part of the wider MEGZ development the site was regraded with infrastructure networks installed.
- 6.5.3 The application is supported by a flood risk and drainage strategy. Yorkshire Water reviewed the submitted strategy and raised no objections, noting that foul water will discharge to a public foul sewer, the sub conditions do not support the use of soakaways and any surface water connections to the nearby watercourse will require agreement with relevant parties (Environment Agency, local land drainage authority, internal drainage board). Yorkshire Water recommended a condition be imposed requiring the development to be undertaken in accordance with the strategy as submitted.

- 6.5.4 The Council's Drainage Engineer reviewed the scheme and requested updated calculations for climate change allowances and peak flows. The strategy was updated along with additional commentary and no further objections were raised.
- 6.5.5 Subject to the condition as requested by Yorkshire Water it is considered that the proposal complies with the requirements of policy CLP13.

6.6 Highways Safety and Access

- 6.6.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision, highway safety, cycle parking, appropriate connections and electric charging provision.
- 6.6.2 Access to the site will be taken from Enterprise Way with a dedicated one way system for vehicles and separate pedestrian access routes. Cycle parking is indicated on the layout plan, full details should be provided and controlled by condition. Application supported by a Stage 1 Road Safety Audit and associated drawings (including revisions) and a Transport Assessment. The assessment concluded that additional trips on the road network would not be significant and will not be perceptible to existing users of the network, no mitigation of any junctions will be required. Trips to the site will be self regulating and the trips generated solely to the ancillary facilities will be insignificant.
- 6.6.3 The Local Highways reviewed the submitted details and raised no objections subject to conditions covering the creation of the access, provision of parking in accordance with application drawings, pre-commencement scheme of highways improvement works including footway/road widening and implementation and completion of works along with a S278 agreement, no gates or barriers, gradient of access and provision of a highway construction management plan. It is recommended the condition wording be carefully considered to allow for works to be undertaken at the agreement of the LPA and it is anticipated that a phasing programme would provide a clear timescale for works to create an access during construction, highway works and the creation of the final access points.
- 6.6.4 As the proposal seeks to provide electric charging infrastructure the development aligns with the requirements of part e of policy CLP22.

6.6.7 Subject to conditions covering the details recommended the proposal is considered to accord with policies CLP20 and CLP22 of the Local Plan on this basis.

6.7 Biodiversity including trees and landscaping

6.7.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.7.2 The application is supported by a detailed Preliminary Ecological Appraisal which includes a Phase 1 Habitat survey and DEFRA metric 3.1 and proposed enhancement plans. The Derbyshire Wildlife Trust reviewed the submission and requested an updated metric be submitted along with commentary on open mosaic habitat. The Trust agree with the findings of the report and figures of the metric which result in the loss of -0.60 habitat units and +0.91 linear units. The biodiversity loss will be relatively small with no habitats of high distinctiveness impacted. The report found that on the basis of the initial site assessment no further survey works would be required with respect of protected species/priority habitats.

6.7.3 In partnership with Derbyshire Wildlife Trust and as part of the consideration of Policy CLP16 and the anticipated detail of the Environment Act the Strategic Planning Policy team have been looking into how biodiversity net gains can be off set within the Borough on areas of land controlled by the Council. These areas of land can be planted and differently managed to secure biodiversity gains where the extent of gain required cannot be achieved on development sites. This will come forward as Supplementary Planning Guidance in due course however that process has started and has initially sifted a number of sites within the Borough.

6.7.4 A piece of work has also been carried out by the Council’s leisure services to provide a detailed assessment of the cost of providing such habitat units on land already used as open space within and controlled by the Council, this has taken place alongside a detailed ecological proposal for a receptor site giving appropriate accuracy

to the assessment. This has concluded that the cost per habitat unit for management, replanting and monitoring biodiversity receptor sites is £20,000 per habitat unit.

- 6.7.5 The Derbyshire Wildlife Trust consider a contribution of £20,000 an acceptable solution to be secured through a legal agreement. To truly offset and achieve net gain the Trust advise that the contribution should be spent on creating or significantly enhancing habitats such as low nutrient grassland or open mosaic habitat, as these are the key impacts of the development. Whilst it is considered preferable to determine the specific receptor site prior to determination as the proposal will result in the requirement for one habitat unit it is considered that this can be accommodated within the scoping sites identified through the scoping exercise by the Council and the monies should be directed towards the closest site where possible.
- 6.7.6 The application submission includes a biodiversity net gain plan for on site works which should be controlled by condition. The Derbyshire Wildlife Trust also requested that either a condition be imposed requiring a construction environmental management plan (CEMP) by condition of for the submission ecological appraisal to be updated to include precautionary measures for great crested newts and reptiles. The Ecological appraisal was subsequently updated by the applicant, therefore it is recommended that a compliance condition be imposed to ensure the development is undertaken in accordance with the measures outlined in the submitted appraisal.
- 6.7.7 The Council's Tree Officer reviewed the submitted Arboricultural Impact Assessment which estimates 52 trees will need to be removed classified as category C trees of low quality. New planting is proposed as part of the development to account for the loss of trees and hedgerow with heavy standard specimens and species rich hedgerows. The Tree Officer recommended a condition be imposed requiring the submission of tree protection plans and arboricultural method statements
- 6.7.8 Subject to the conditions as set out above and legal agreement the proposal accords with the provisions of policy CLP16 of the Local Plan.
- 6.8 Ground Conditions and Contamination including Air Quality**

- 6.8.1 Local Plan policy CLP14 requires consideration of air quality and land contamination and policy CLP22 requires the electric charging provision as part of developments.
- 6.4.2 The application site is located in an area considered to be covered by standing advice with regards to the coal mining legacy. Remediation works to address former land contamination were addressed as part of the wider MEGZ development.
- 6.4.3 As noted previously 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 2018), and a subsequently changed to a revised target date of 2035. The proposal will support this shift by provided the necessary infrastructure for electric vehicles which will also serve to help address air pollution nationally. The proposal complies with the requirements of Local Plan policies CLP14 and CLP22.

6.9 Community Infrastructure Levy

- 6.8.1 Having regard to the nature of the application which it is accepted comprises of the creation of new retail floorspace, the development may be CIL liable however further discussion is likely regarding the sui generis nature of the development proposed and the proposed limitations which are set out in the recommended conditions below.

Develop ment Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	A Net Area (GIA in Sq.m)	B CIL Rate	C Index permission	D Index charging schedule	E CIL Charge
Retail	244	0	244	£80 (Retail)	332	288	£25,502

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

7.0 REPRESENTATIONS

- 7.1 No representations have been received as a result of the proposal

8.0 HUMAN RIGHTS ACT 1998

- 8.1 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

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 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 2021 National Planning Policy Framework (NPPF).

9.2 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.

9.3 The applicant /agent will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

10.0 CONCLUSION

10.1 Overall subject to conditions the proposal is considered to be acceptable in accordance with policies CLP1, CLP2, CLP6, CLP9, CLP11, CLP13, CLP14, CLP16, CLP20, CLP21, CLP22, SS4 and the wider NPPF.

11.0 RECOMMENDATION

- 11.1 It is therefore recommended that the application be **GRANTED** subject to securing the following via a legal agreement:
- Biodiversity net gain of 1 habitat unit at £20,000 per unit to CBC = £20,000

And subject to the following conditions:

11.2 Conditions

Time frame

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 and documents (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Drawings

- Site Location Plan, drawing number BOW-A0-ZZ-DR-A-0101 Revision P3 and BOW-A0-ZZ-DR-A-0102 Revision P4 (Dated 30.07.2021)
- Proposed Electric Forecourt Block Plan, drawing number 8308-BOW-A0-ZZ-DR-A-0104 Revision P4 (dated 03.11.2021)
- Proposed Site plan, drawing number 8308-BOW-A0-ZZ-DR-A-0105 Revision P5 (dated 08.02.2022)
- Enterprise Way Western Edge Details, drawing number BOW-A0-ZZ-DR-A-0106 Revision P4 (dated 03.11.2021)
- Proposed Building GA Plans, drawing number 8308-BOW-A0-ZZ-DR-A-0200 Revision P4 (dated 15.11.2021)
- Proposed Building Roof Plan, drawing number 8308-BOW-A0-ZZ-DR-A-0201 Revision P1 (dated 06.10.2021)
- Proposed Building Elevations and Sections, drawing number 8308-BOW-A0-ZZ-DR-A-0300 Revision P1 (Dated 06.10.2021)
- Proposed Site Sectional Elevations, drawing number 8308-BOW-A0-ZZ-DR-A-0301 Revision P1 (dated 22.09.2021)

- Plan of coldstore, drawing un-numbered (received 10.06.2022)
- Proposed Access/egress works, drawing number 20/154/012/TR/008 Revision H (dated 25.05.2022)
- Swept path of max legal HGV accessing site, drawing number 8308-BOW-A0-ZZ-DR-A-0301 Revision B (dated 10.06.2022)

Supporting documents

- Design and access statement produced by Bowman Riley Document No: 8308-BOW-A0-ZZRP-A-0010_D&A Statement Revision P4 (Dated 28.03.2022)
- Arboricultural Impact Assessment BS 5837:2012 produced by Delta-Simons Project Number 21-0619.02
- Preliminary Ecological Appraisal produced by Delta-Simons Project No. 21-0619.01 – Revision 5 (dated 12.08.2022)
- DEFRA metric 3.1
- Flood Risk & Drainage Strategy Statement produced by CPA CONSULTING REF 2141/DSS/PL06 (Dated August 2022)
- Heritage Impact Assessment produced by HCUK Group Project Ref 7095A dated November 2021
- Noise Impact Assessment produced by Delta-Simons Project No. 21-0619.03 dated November 2021
- Planning Statement produced Peacock and Smith Job Ref. 5441 dated April 2022
- Proposed Electric Forecourt Markham Vale Stage 1 Road Safety Audit produced by Road Safety Initiatives LLP dated May 2022
- Transport Assessment produced by Bryan G Hall reference Ref: 20-154-012-02.02, dated November 2021

Construction hours

3. No construction or demolition works, external works, movement of construction traffic, or ancillary operations and deliveries to and from the premises shall be carried out only the hours 0800 and 1800 hours Monday to Friday, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason - To safeguard the privacy and amenities of the occupiers of residential neighbours in accordance with Local Plan policy CLP14 and CLP20.

Creation of access

4. No development, including preparatory works, shall commence until a phasing programme for the provision of the new vehicular and pedestrian accesses to Enterprise Way has been submitted to and agreed in writing by the Local Planning Authority. The junction and access shall be laid out in accordance with the approved programme lined, signed, constructed, drained and visibility sightlines of 120m measured in each direction to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason – In the interests of highways safety and in accordance with Local Plan policy CLP20 and CLP22.

Highway improvement works

5. In accordance with the programme to be approved under condition 4 a detailed scheme of highway improvement works for the provision of a footway/road widening works together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

Reason – In the interests of highways safety and in accordance with Local Plan policy CLP20 and CLP22.

Construction Management Plan

6. No development shall start until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:
 - a) Temporary construction access
 - b) parking for vehicles of site personnel, operatives and visitor
 - c) site accommodation
 - d) storage of plant and materials

- e) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control
- f) provision of roadside boundary hoarding behind any visibility zones
- g) any proposed temporary traffic management.

Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason - To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents in accordance with Local Plan policy CLP22.

Cycle stands

7. Details of a covered cycle shelter shall be submitted to and approved in writing. The hereby approved cycle shelter shall be installed in accordance with the approved detail and made available to use prior to the first operation of the development and thereafter be retained available for use.

Reason – to ensure cycle parking provision is provided as part of the development in accordance with Local Plan policies CLP20 and CLP22.

Drainage

8. The development shall be carried out in accordance with the details shown on the submitted 'Flood Risk and Drainage Strategy Statement 2141/DSS/PL06 prepared by CPA dated August 2022' unless otherwise agreed in writing with the Local Planning Authority.

Reason – in the interests of satisfactory and sustainable drainage and in accordance with Local Plan policy CLP13.

Arboricultural – tree protection measures

9. Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) Details of any construction within the RPA or that may impact on the retained trees.
- b) a full specification for the installation of boundary treatment works.
- c) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- d) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- e) Methods to improve the rooting environment for retained and proposed trees and landscaping

The development thereafter shall be implemented in strict accordance with the approved details.

Reason - Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990

Environmental protection during construction

10. All works shall proceed strictly in accordance with the measures outlined in Section 6.2 of the Preliminary Ecological Appraisal (Delta-Simons, project number 21-0619.01, issue number 5 dated 12.08.2022) These comprise precautionary methods for site clearance to safeguard amphibians, reptiles, birds and hedgehogs. A short statement of compliance shall be submitted to the LPA upon completion of works to discharge the condition

Reason – in accordance with Local Plan Policy CLP16

Biodiversity enhancement plan

11. The approved biodiversity/ecological enhance plan 'Soft Landscaping Specification' drawing number MR21-103/101 (dated 03.08.2021 set out in the Preliminary Ecological Appraisal (Delta-Simons, project number 21-0619.01, issue number 5 dated 12.08.2022) shall be implemented during the first planting season (October to March) following commencement of the development unless otherwise approved in writing by the Local Planning Authority and maintained thereafter, with photographs

of the measures in situ submitted to the LPA to fully discharge the condition.

Reason – in accordance with Local Plan Policy CLP16

Landscape and Ecological Management Plan

12. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The LEMP shall cover all retained and created habitats, as identified in the agreed Biodiversity Net Gain Feasibility Assessment report to meet the habitat gains set out in the Biodiversity metric calculation and landscaping of the site agreed under condition 11.

The content of the LEMP shall include the following;

- (a) Description and evaluation of features to be managed;
- (b) Ecological trends and constraints on site that might influence management;
- (c) Aims and objectives of management;
- (d) Appropriate management options for achieving aims and objectives;
- (e) Prescriptions for management actions;
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
- (g) Details of the body or organization responsible for implementation of the plan;
- (h) Ongoing monitoring and remedial measures,
- (i) Details of the company to be set up to manage the any private highways areas and the landscaped areas of the site in perpetuity,

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 Years +) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason - To ensure the long term management of the site including highways and open spaces and the protection of wildlife and habitat objectives, to secure opportunities for enhancing the

site's biodiversity value in the long term in accordance policy CLP16 of the Adopted Local Plan

Ancillary retail

13. The primary use of the site shall remain as an electric vehicle charging station with ancillary services with a retail floorspace (use class E (a) and E (b) only) of no greater than 244 square metres

Reason- In the interests of local Plan policy CLP9 and the NPPF.

Retail use only when charging points operational

14. The retail/cafe uses (Use classes E(a) & E(b)) of the hereby approved development shall only be used when the charging points of the main sui generis use are operational and available to use by the public.

Reason - In the interests of local Plan policy CLP9 and the NPPF.

Employment and Skills strategy

15. The development hereby permitted shall implement the Employment and Skills Strategy (dated August 2022). The strategy seeks to promote local supply chain, employment and training opportunities during the operation of the development. Prior to the first operation of the development an addendum to the strategy shall be provided to demonstrate how the development will engage with providers for low carbon technology and sustainable fuels and details of a local supply chain strategy with detail of how opportunities will be promoted locally.

Reason - in order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Adopted Local Plan.

Lighting

16. The approved lighting scheme as detailed on drawing External Lighting Layout drawing numbers 21/3791/E63/EX01 Revision E and 21/3791/E63/EX02 Revision E shall be implemented prior to the first use of the development and retained as such thereafter

Reason – in the interests of the amenity of residents and safety of site users in accordance with Local Plan policy CLP14 and CLP20.

Boundary Treatments

17. Unless otherwise agreed in writing with the Local Planning Authority the development, including boundary treatments, hereby permitted shall be constructed entirely of the materials detailed and shown on plan number Site plan, drawing number 8308-BOW-A0-ZZ-DR-A-0105 Revision P5 (dated 08.02.2022) and 8308-BOW-A0-ZZRP-A-0010_D&A Statement Revision P4 (Dated 28.03.2022)

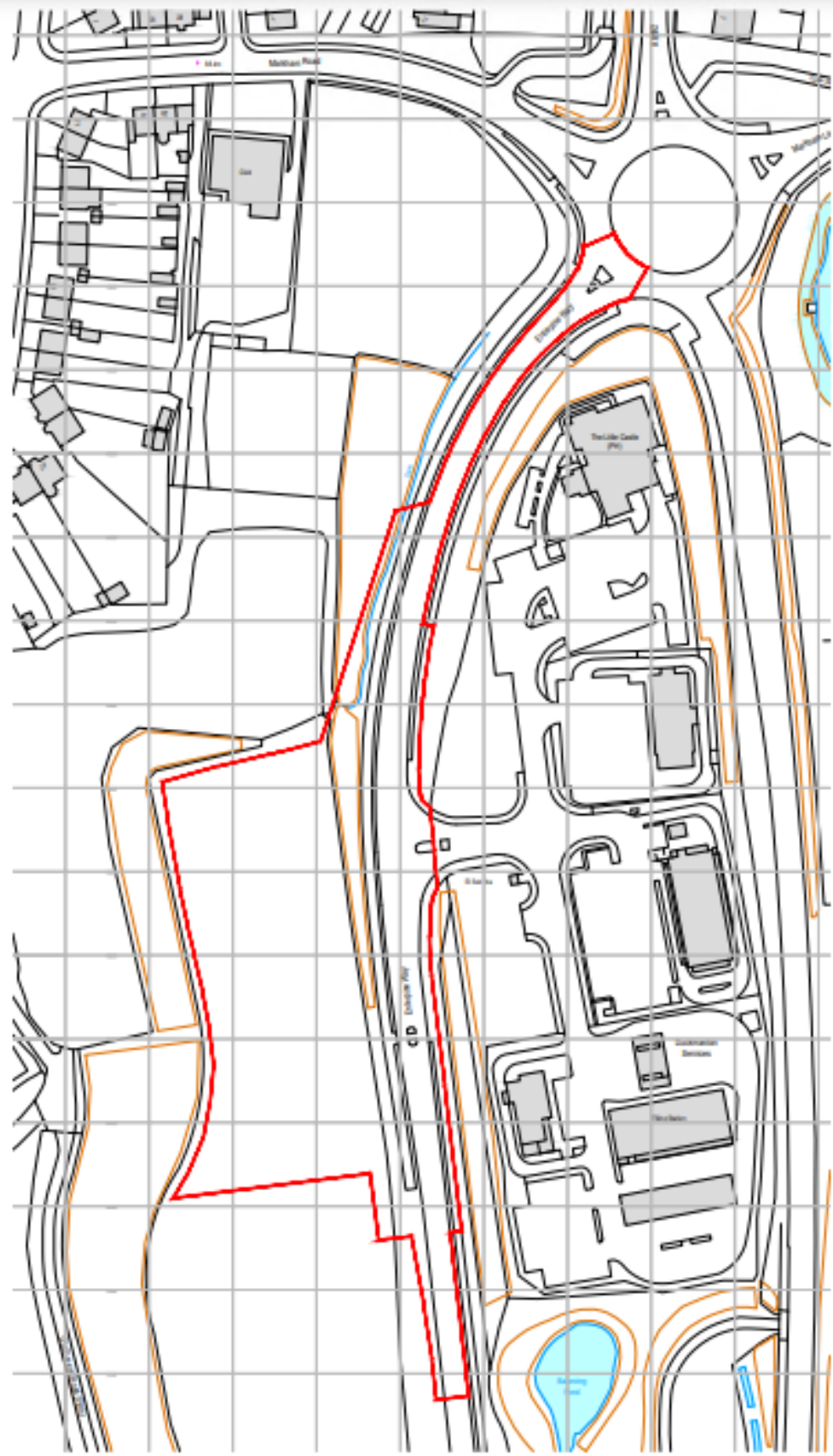
Reason - To ensure that the external appearance of the development is of an appropriate design and quality in accordance with Local Plan policy CLP20.

11.3 Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
3. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

4. 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.
5. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
6. 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.
7. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/road_works/default.asp
8. The applicant should be aware that if the any of the site is subject to a covenant which protects that land indicated on the attached drawing. obligations on the land owner and the protection of future access and maintenance rights for the Highway Authority which will pass with successors in title.
9. 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



This page is intentionally left blank

Agenda Item 5

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 th August 2022
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by Development Management and Conservation Manager under the following Delegation references:- Planning Applications P020D, P200D to P250D, P270D to P320D, P350D to P370D, P390D, P420D to P440D Agricultural and Telecommunications P330D and P340D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only.
Anyone requiring further information on any of the matters
contained in this report should contact:-

Planning Applications	Paul Staniforth	345781
-----------------------	-----------------	--------

This page is intentionally left blank

Delegated List
Planning Applications

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/21/00130/FUL	West	Demolition of existing car port and erection of detached garage - Revised drawing received 31/03/21. Revised address (from flat A to flat C 14/04/21 and to flat B 30/04/21) At Flat B 572 Chatsworth Road Chesterfield S40 3JS For Mr Timothy Walker	CP	08/08/2022
CHE/21/00769/FUL	Old Whittington	Installation of a STOR Gas Reserve Power Plant At Land To The North Of Dunston Trading Estate Sheepbridge Lane Sheepbridge For Johnsons Generators Limited	CP	07/07/2022
CHE/21/00836/FUL	Middlecroft And Poolsbrook	Two storey side and single storey side extensions to form self contained 1 bedroom dwelling and lounge and staircase access to existing dwelling and alterations to existing shop At 1 - 3 The Grove Poolsbrook Chesterfield S43 3JY For Mr Vaithianatha Kumaresan	CP	14/07/2022
CHE/22/00181/FUL	West	Two storey rear extension - description and drawings revised 12.06.2022 At 175 Old Road Chesterfield S40 3QL For Mrs Laura Wilkinson	CP	11/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00188/FUL	Rother	Creation of a drop curb and car parking to the front elevation. At 31 St Augustines Road Birdholme Chesterfield S40 2SF For Mr Kyle Perrins	CP	06/07/2022
CHE/22/00215/DOC	Walton	Discharge of planning conditions Made Ground Removal and Validation Testing At Land South Of Walton Hospital Harehill Road Grangewood For Vistry Partnership	DPC	06/07/2022
CHE/22/00219/FUL	West	First floor extension and amend roof from gable to hip on front elevation At Witham Court Old Road Chesterfield S40 3QX For Mr and Mrs Lucas	CP	08/08/2022
CHE/22/00226/FUL	St Helens	Conversion of out building to habitable accommodation linking to existing dwelling with single storey rear and side extension and front entrance porch At Greycot Highfield Road Newbold Chesterfield S41 7HB For Mr Ryan Newton	CP	05/08/2022
CHE/22/00234/FUL	Brimington North	One and two storey rear extension At 55 Princess Street Brimington Chesterfield S43 1HP For Kelly Scothorn	CP	12/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00235/FUL	Rother	Single storey rear extension At 171 Boythorpe Road Boythorpe Chesterfield S40 2NB For Mr and Mrs Dowson	CP	05/08/2022
CHE/22/00246/ADV	St Leonards	Replace all existing fascia panels and fascia logos with new fascia panels and fascia logos , replace existing projecting signage with new projecting sign At 36 Rose Hill Chesterfield S40 1LR For Nationwide Building Society	CP	08/07/2022
CHE/22/00254/FUL	St Leonards	Replacement of existing ATM shroud with new, removal and replacement of lower cladding and general refurbishment At 36 Rose Hill Chesterfield S40 1LR For Nationwide Building Society	CP	08/07/2022
CHE/22/00257/FUL	St Leonards	Replacement of the existing external through the wall ATM with new model. At Hsbc Bank Market Place Chesterfield S40 1TN For HSBC UK Bank plc	CP	06/07/2022
CHE/22/00258/ADV	St Leonards	Replacement of existing external ATM signage with new. At Hsbc Bank Market Place Chesterfield S40 1TN For HSBC UK Bank plc	CP	06/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00261/RET	Moor	Change of use from Class E to a Nail Parlour (Sui Generis). At The Glass Yard, Unit 2 Sheffield Road Whittington Moor Chesterfield S41 8JY For Mr Chung Van Le	CP	19/07/2022
CHE/22/00264/DOC	Middlecroft And Poolsbrook	Discharge of conditions 03, 06, 07, 09, 10, 14, 15 and 18 of application CHE/21/00190/FUL. At Former 9 and 9A Wensley Way Staveley S43 3NP For Chesterfield Borough Council	PDOC	04/08/2022
CHE/22/00269/FUL	Brockwell	Two Storey extension to front of property and single storey extension to rear At 8 Holmebank West Brockwell Chesterfield S40 4AS For John and Valerie Felton	CP	07/07/2022
CHE/22/00280/LBC	Brimington South	Supply and fix hand fabricated lockable drop bolt to the existing cast iron gates and replacement of 1 damaged finial At Tapton House Brimington Road Tapton S41 0TD For Chesterfield Borough Council	CP	14/07/2022
CHE/22/00281/AGR	Old Whittington	Agricultural building for storage of animal feed and farm machinery At Land Opposite The Quest Unstone Road Old Whittington Chesterfield For Mr Steven Kilroy	PPR	13/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00282/DOC	Old Whittington	Discharge of conditions 4 (biodiversity net gain) and 6 (materials) of CHE/21/00342/FUL - Rear two storey extension, two storey side extension, two dormer windows to front, rendering of existing dwelling and new canopy to the front, raising of the existing roof, hard surfacing and creation of additional parking to front and new terrace area to the rear. At 157 Church Street North Old Whittington Chesterfield S41 9QR For Mr James Galligan	DPC	03/08/2022
CHE/22/00299/NMA	Old Whittington	Non material amendment relating to condition 2 of CHE/21/00342/FUL: Addition of two lantern rooflights, Omission of proposed columns in rear elevation, Alteration to first floor interior layout, alteration to landscaping. - Revised drawing received 04.07.2022 At 157 Church Street North Old Whittington Chesterfield S41 9QR For Mr James Galligan	UP	08/07/2022
CHE/22/00304/LBC	Brimington North	Roof repairs to outbuildings. At Post House Nursery 15 High Street Brimington S43 1DE For Mr Michael Fowler	CP	13/07/2022
CHE/22/00305/DOC	St Leonards	Discharge of condition 8 of application CHE/15/00676/FUL. At Unit 3 Co-Operative House Elder Way Chesterfield S40 1UR For Mr Ian Scott	DPC	20/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00309/FUL	West	Single storey rear extension and conversion of two dwellings into one - re-submission of CHE/21/00357/FUL At 272 - 274 Old Road Chesterfield S40 3QN For Mrs Clare Dolman	CP	11/07/2022
CHE/22/00312/FUL	Brimington North	Single storey self contained shop unit attached to existing building. (Revised plans received 04/07/2022 and 11/07/2022). At 72-78 Devon Drive Brimington Chesterfield S43 1DY For Mr Sukdev Singh and Mrs Surinder Kaur	CP	14/07/2022
CHE/22/00326/FUL	Brimington North	Proposed two storey side and rear extension with rendering to walls. At 50 Hill View Road Brimington Chesterfield S43 1JN For Sarah Burchby	CP	02/08/2022
CHE/22/00328/FUL	St Leonards	Two storey side extension At 123 Spital Lane Spital Chesterfield S41 0HL For Mr Ashley Woolley	CP	28/07/2022
CHE/22/00343/FUL	Walton	Two storey side and rear extension, with widening of the existing patio and erection of 2m fencing above the ground level of the existing decking. Rendering to the extended rear wall. At 95 Foljambe Avenue Walton Chesterfield S40 3EY For Mr and Mrs Wilmot	REF	19/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00347/FUL	West	<p>Single storey rear extension and side dormer</p> <p>At 16 Westbourne Grove Ashgate Chesterfield S40 3QD</p> <p>For Miss Claire Freeman</p>	CP	28/07/2022
CHE/22/00352/LBC	St Leonards	<p>Installation of replacement and new advertisements. This is the listed building consent application associated with the advertisement consent application CHE/22/00202/ADV.</p> <p>At 35-37 Low Pavement Chesterfield S40 1PB For Boots</p>	CP	20/07/2022
CHE/22/00358/TPO	West	<p>T8 - Beech Tree (Fergus Sylvatica) of G3 of TPO169. Prune branches (partial crown reduction) by 1 - 3 metres growing South East towards property 161 Walton Back Lane to clear structure, shape and balance and general maintenance.</p> <p>At 1 Park Hall Gardens Walton S42 7NQ</p> <p>For Mr Nigel Metham</p>	CP	11/07/2022
CHE/22/00367/FUL	Linacre	<p>Single storey extension to the front/side of the property - resubmission of CHE/22/00120/FUL</p> <p>At 10 Oldridge Close Holme Hall Chesterfield S40 4UF For Mr Bruce Grinnell</p>	CP	20/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00371/FUL	Brimington South	Replacement of existing boundary fence At 379 Manor Road Brimington Chesterfield S43 1PP For Mr Alan Cheswick	CP	11/08/2022
CHE/22/00385/DOC	Brimington North	Discharge of condition 3 (biodiversity measures) of CHE/20/00492/FUL. At 29 Rayleigh Avenue Brimington S43 1JR For Jenny Sutton	DPC	27/07/2022
CHE/22/00390/FUL	Barrow Hill And New Whittington	Rear extension to bungalow At 38 Highland Road New Whittington Chesterfield S43 2EZ For Mr David Collier	CP	20/07/2022
CHE/22/00394/DOC	Moor	Discharge of condition 4 (materials) relating to application CHE/21/00414/FUL - Two storey rear extension and alterations At 20 Ringwood Avenue Newbold Chesterfield S41 8RB For Mrs Louise Smith	REF	11/07/2022
CHE/22/00402/TPO	Rother	40 % pollarding of two ash trees overshadowing garden and decking At 22 Staunton Close Chesterfield S40 2FE For Mr Denis Llewellyn	SC	12/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00404/REM	Old Whittington	Removal of condition 6 (arrangement of rear amenity space) of application CHE/20/00310/FUL-Conversion of first floor of existing retail and office premises to form a 1 bed self contained flat retaining separate retail space at ground floor. At 32 High Street Old Whittington Chesterfield S41 9JT For Messrs Stoddard and Daly	CP	11/08/2022
CHE/22/00408/DOC	St Leonards	Discharge of condition 4 (landscaping and ecological scheme) of application CHE/21/00737/FUL- External alterations to the south and east elevations of the building. At Ravenside Retail Park, Unit 1B Park Road Chesterfield S40 1TB For LS Chesterfield Ltd	DPC	18/07/2022
CHE/22/00410/CLO	Brockwell	Single storey ground floor extension, and roof extension to create new dormer at second floor level. At 22 Foljambe Road Chesterfield S40 1NW For Mr Will Penkyman	GR	13/07/2022
CHE/22/00414/FUL	West	Single storey side and rear extension, new raised decking and boundary fence and new roof over existing bay window to front elevation (Revised plans received 02/08/2022) (Description of development amended 15/08/2022). At 575 Chatsworth Road Chesterfield S40 3JX For Mr and Mrs Speed	CP	16/08/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00415/FUL	Walton	Single storey rear extension. At 7 Millstream Close Walton S40 3DS For Mrs Charlotte Law	CP	08/08/2022
CHE/22/00430/DOC	Lowgates And Woodthorpe	Removal of condition 3 (investigation of existing sewer/drain line crossing the site and the submission of a scheme for its diversion) of application CHE/20/00653/REM- Redevelopment of land for employment uses (use classes B1,B2 and B8) at land accessed from, Farndale Road, Staveley, Derbyshire. At Land Accessed From Farndale Road Staveley For Devonshire Property (B2B) Limited	DPC	25/07/2022
CHE/22/00440/CLO	Hollingwood And Inkersall	Single storey rear extension At 30 Hornbeam Close Hollingwood S43 2HU For Mr Jason Smith	GR	13/07/2022
CHE/22/00450/DOC	St Leonards	Discharge of conditions 3 (protection of the retained trees), 12 (external materials), 14 (demonstration that the proposed destination for surface water accords with the drainage hierarchy) and 15 (indication of how additional surface water run-off during construction will be avoided) of application CHE/21/00438/FUL. At Chesterfield and North Derbyshire Royal Hospital Chesterfield Road Calow Chesterfield S44 5BL For Chesterfield Royal Hospital	PDOC	09/08/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00451/TPO	Loundsley Green	General works to trees identified in tree map and works described in application form. At Loundsley House Cuttholme Way Loundsley Green Chesterfield S40 4WG For Envivo Group	CP	10/08/2022
CHE/22/00455/DOC	St Helens	Discharge of conditions 3 (Verification report),8 (Details of cellular confinement system) ,9 (hard surfacing within the RPA details),11 (Treatment and hard landscaping details) and 12 (hard landscaping works and structures details) of application CHE/21/00284/REM1- Residential development of 5 houses with associated landscaping and parking. At Site Of Former Old Farm Inn Highfield Road Newbold For Primesite UK Ltd	PDOC	09/08/2022
CHE/22/00467/TPO	Moor	T3- TPO No. 331, 2014. Remove a group of smaller branches that have grown from an area where a large branch was previously removed before it had a TPO. Lift the crown to give a 1.5-2m clearance above the shed underneath for cleaning and maintenance of the roof. At West Boundary Of Stand Road Allotments Newbold S41 8SR For Mr Bob Higginbottom	CP	14/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00469/TPO	St Leonards	<p>T1, T3, T4, T5 & T6 - Yew trees. Standard maintenance - crown lift canopies to 3m & prune away from buildings by 1-2 metres T2 - Ash. Fell to ground level. The tree is too close to the building and is starting to damage the wall that it is growing very close to. We wish to replace with another Yew tree. T12 - Plane. Currently 20 metres, reduce by 3 metres to 17 metres and reshape. The tree is outgrowing it's situation & we have concerns over some overextended branches in the canopy.</p> <p>At Elder Unitarian Chapel Elder Way Chesterfield S40 1UR For Elder Yard Unitairan Chapel</p>	CP	01/08/2022
CHE/22/00475/NMA	Walton	<p>Non material amendment of application CHE/20/00760/FUL- Conversion and extension of existing garage to form new dwelling- To extend the new north-eastern boundary fence line from rear elevation to no.72 Walton Road from 7m to 7.7m.</p> <p>At Land Adj 72 Walton Road Walton S40 3BY For Mr Adam Bowler</p>	CPNMAZ	27/07/2022
CHE/22/00478/DOC	West	<p>Discharge of condition 4 (materials) of CHE/22/00214/REM1 - single storey rear and side extension and installation of two new dormer windows to the front and two to the rear of the property</p> <p>At 27 Westbrook Drive Chesterfield S40 3PQ For Mr Matthew Crawley</p>	DPC	27/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00492/CPO	St Leonards	Change of Use from Residential (C3) to a Children's Home (C2) At Trevilla 73 Hady Hill Hady S41 0EE For Derbyshire County Council	OC	04/08/2022
CHE/22/00494/TPO	Brockwell	To maintain the lime trees T2, T5-T9 by CP removing any epicormic growth from the tree base to a height of no more than 2 metres At 6 Hunters Walk Chesterfield S40 1GB For Limetree Park No 1 Management Company	CP	20/07/2022
CHE/22/00497/DOC	Lowgates And Woodthorpe	Discharge of condition 11 (materials) of DPC CHE/19/00083/FUL At All Inn Lowgates Staveley S43 3TX For A-Rock Construction Ltd	DPC	27/07/2022
CHE/22/00534/NMA	St Helens	Non material amendment of application CHE/19/00116/REM- To vary the wording of condition 5 so that it states: 'The highway works shown on Curtins drawings 05/005-V05 and 05/004-V06 as phase 1A shall be completed to within 6 months of first occupation of the building hereby approved' At Land At East Of A61Known As Chesterfield Waterside Brimington Road Tapton Chesterfield For Chesterfield Waterside Limited	CPNMAZ	25/07/2022

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00550/TPO	Brimington North	<p>The three southern most trees under group G1, 2x Lime and 1x Maple. They have become overgrown, are overhanging neighbouring properties and look untidy. 20% thinning, dead wooding and pruning to all trees. Crown lifts if possible due to presence of bat boxes on some of the lowest branches in each tree. Ecologist to survey bat boxes on morning of works to determine bat presence. If bats are not present, bat boxes to be relocated higher into the tree. If present crown lift to be conducted at a later date.</p> <p>At 39 Ringwood Meadows Brimington S43 1FE</p> <p>For Mr Nathan Robinson</p>	CP	09/08/2022
CHE/22/00556/TPO	West	<p>Felling of one Silver Birch (T33/TPO Ref 173)</p> <p>At 305 Ashgate Road Chesterfield S40 4DB</p> <p>For Mr Mick Wall</p>	CP	11/08/2022
CHE/22/00572/TPO	Dunston	<p>Felling of one dead Ash tree to the side of 11 Comley Crescent (plot 96) - Tree Preservation Order 4901.44 area 1</p> <p>At Trees To The Side Of 11 Comley Crescent Chesterfield S41 9SH</p> <p>For AWA Tree Consultants Ltd</p>	CP	09/08/2022

Delegated List - Planning Applications

Key to Decisions

Code	Description
AC	Historic
AP	Historic
APPRET	Application returned to applicant
CI	Called in by secretary of state
CIRNO	Circular 18/84 no objection
CNOCO	Circular 18/84 no objs but conditions
CONCOM	Confirmation Compliance with Conditions
CP	Conditional permission
CPEOTZ	Conditional Permission Extension of Time
CPMAZ	Conditional consent for material amendment
CPRE1Z	Conditional Permission Vary Conditions
CPRET	Conditional Approval Retrospective
DPC	Discharge of Planning Conditions
FDO	Finally Disposed Of
GR CLOPUD	CLOPUD Granted
GRANT CLUD	CLUD Granted
GRNTEX	Permission Granted with Exemption
ND	Non Development
OBJ	Other Council objection
OC	Other Council no obj with comments
OW	Other Council no obj without comments
PA	Prior Notification Approval
PADEM	Prior Notification Demolition Approve
PD	Found to be Permitted Development
PR	Prior Notification Refusal
RAP	Retrospective Application Refused
RARETZ	Retrospective Application Approved
RC	Application Refused
REF	Refused
RETAP	DO NOT USE
RETRFZ	Retrospective Application Refused
RF CLODUP	CLOPUD Refused
RTN	Invalid Application Returned
S106	S106 Approved pending planning obligation
SC	Split decision with conditions
SU	Split decision - approval unconditional
UP	Unconditional permission
UPRET	Unconditional Approval Retrospective
WDN	Withdrawn
XXXXXX	Recommendation Pending

This page is intentionally left blank

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	30 th August 2022
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by the Development Management and Conservation Manager under the following Delegation references:- Felling and Pruning of Trees P100D, P120D, P130D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact:-

Applications to Fell or Prune Trees	Steve Perry	345791
-------------------------------------	-------------	--------

This page is intentionally left blank

SECTION 1**APPLICATION TO FELL OR PRUNE TREES**

<u>CODE NO</u>	<u>DESCRIPTION OF PROPOSAL</u>	<u>TERMS OF DECISION</u>
CHE/22/00358/TPO TPO 4901.169 11/07/22	The pruning of one Beech tree within G3 on the Order map at 1 Park Hall Gardens, Somersall.	Consent is granted to the reduction of branches growing over the driveway and towards 161 Walton Back Lane by a maximum of 2 metres, pruning back to suitable replacement branches and leaving a natural and balanced crown when viewed from Walton Back Lane.
CHE/22/00402/TPO TPO 4901.203 12/07/22	The pruning of two Ash trees within W1 on the Order Map and which are situated to the south of 22 Staunton Close along the river banking of Birdholme Brook	Consent is refused to the pollarding of the two trees but consent is granted to a light crown reduction by a maximum of 2.5 metres and reshaping the crown to BS3998 Tree Works.
CHE/22/00467/TPO TPO 4901.331 14/07/22	The pruning of one Sycamore tree reference T1 on the Order Map which is situated on the west boundary hedge of Grove Allotments, Stand Road	Consent is granted to crown lift the tree over the shed to give a 1.5 metres clearance from the structure.
CHE/22/00494/TPO TPO 4901.261 20/07/22	The pruning of 6 trees reference T2 & T5-T9 Lime on the Order Map and which are situated along Hunters Walk, Saltergate	Consent is granted to the removal of epicormic growth up to a height of 2 metres from ground level pruning back to the main stem.

<p>CHE/22/00469/TPO</p> <p>TPO 4901.95</p> <p>08/08/22</p>	<p>The felling of one Ash tree reference T2 and the pruning of 5 Yew trees reference T1 & T3 -T6 and one London Plane T12 on the Order Map and which are situated in the grounds of Elder Yard Unitarian Chapel, Elder Way</p>	<p>Consent is granted to the felling of one Ash tree which is damaging the adjacent wall with a condition to replant with a Yew tree which would match the existing tree cover to the frontage and the pruning of 5 Yew trees to crown lift by 3 metres and trim away from the adjacent building and fire escape.</p> <p>Consent is also granted to crown reduce one London Plane tree to the rear by 3 metres to leave a 17 metre high tree pruning back to suitable replacement branches and leaving a well-balanced crown.</p>
<p>CHE/22/00572/TPOEXP</p> <p>TPO 4901.44</p> <p>09/08/22</p>	<p>The felling of one dead Ash tree within Area 1 on the Order Map and which is situated in the wooded area to the side of 11 Comley Crescent (Plot 96) off Dunston Road, Dunston.</p>	<p>Consent is granted to the felling of one dead Ash tree.</p> <p>The duty to replant has been dispensed with on this occasion due to the natural regeneration in the woodland and existing trees.</p>
<p>CHE/22/00550/TPO</p> <p>TPO 4901.315</p> <p>09/08/22</p>	<p>The pruning of 2 Lime trees and one Maple within G1 on the Order Map and which are situated at 39 Ringwood Meadows, Brimington</p>	<p>Consent is granted to the crown lifting of 3 trees by 3 metres, crown thinning by a maximum of 20% throughout the crown and the reduction of branches growing towards the neighbouring property by 1 metre, pruning back to suitable replacement branches.</p>

<p>CHE/22/00451/TPO</p> <p>TPO 4901.297</p> <p>10/08/22</p>	<p>The felling of one Sycamore reference T12 and the pruning of 5 individual trees reference T1 Poplar and T2-T,5 Sycamore and 1 Groups of trees reference G1 consisting of x4 Beech on the Order Map and which are situated in the grounds of Loundsley House, Cuttholme Way, Loundsley Green.</p>	<p>Consent is granted to the felling of one Sycamore reference T12 as the tree is nearly dead and a condition has been attached to replace the tree with a Rowan in the first available planting season.</p> <p>Consent is also granted to crown lift, dead wood and crown clean the remaining trees.</p>
<p>CHE/22/00541/TPO</p> <p>TPO 4901.173</p> <p>11/08/22</p>	<p>The felling of one Silver Birch tree reference T33 on the Order Map and which is situated in the front garden of 305 Ashgate Road, Ashgate</p>	<p>Consent is granted to the felling of one Silver Birch tree. An inspection of the tree on the 3rd August 2022 found the foliage to be completely brown and the tree in a poor condition.</p>

This page is intentionally left blank

APPEALS REPORT

MEETING: PLANNING COMMITTEE
DATE: 30th August 2022
REPORT BY: DEVELOPMENT MANAGEMENT AND
CONSERVATION MANAGER

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS

<u>TITLE</u>	<u>LOCATION</u>
Non exempt papers on files referred to in report	Development Management Section Planning Service Town Hall Chesterfield

1.0 PURPOSE OF REPORT

- 1.1 To inform Members regarding the current status of appeals being dealt with by the Council.

PAUL STANIFORTH
DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact Paul Staniforth on 01246 345781.

This page is intentionally left blank

APPEALS

<u>FILE NO.</u>	<u>WARD</u>	<u>APPELLANT</u>	<u>CASE</u>	<u>MEMBER OFFICER</u>	<u>DATE REC</u>	<u>TYPE AND DATE</u>	<u>DECISION AND DATE</u>
2/1675	West ward	Dr C J Martin	CHE/21/00527/TPO – Felling of Lime T1 at 2 Somersall Lane Refusal	Officer delegation	20/9/21	Written Reps (fast track)	
2/69	St Leonards ward	Mr F Casey	CHE/21/00314/PA Prior Approval for Raising roof to create an additional storey at 35 Spital Lane	Officer delegation	29/9/21	Written Reps	
2/1698	Middlecroft and Poolsbrook ward	Mrs Sheila Blankley	CHE/21/00761/OUT 3 eco single storey dwellings at The Dumbles, Inkersall Green Road Refusal	Officer delegation	09/02/22	Written Reps	Allowed 12/07/22 see Appendix A
2/4351	West ward	Mr I Hooper	CHE/21/00909/FUL Garage at 1 Oakfield Avenue Refusal	Officer delegation	28/03/22	Written Reps	Dismissed 10/08/22 see Appendix E
2/2150	Old Whittington ward	Michael Ellis Thompson	CHE/21/00809/FUL Pair of Houses at 132 High Street, Old Whittington Refusal	Officer delegation	22/04/22	Written Reps	
2/3651	Brimington South ward	Mr and Mrs C Franczak	CHE/19/00752/FUL Two detached dwellings and garages at City Farm off Dark Lane Refusal	Officer delegation	10/05/22	Written Reps	
2/5635	Linacre ward	Mr David Cochrane	CHE/22/00080/FUL single storey side extension at 128 Brushfield Road	Officer delegation	13/05/22	Written Reps	Allowed 19/07/22 see appendix B

			Refusal				
2/1694	Middlecroft and Poolsbrook	DOT Surveying	CHE/21/00900/TEL 5g telecom mast at Inkersall Green Road highway verge Refusal	Officer delegation	13/05/22	Written Reps	
2/495	Moor ward	Chesterfield Football Club	CHE/21/00870/ADV 48 sheet digital advert display on Sheffield Road frontage. Refused	Officer delegation	16/5/22	Written Reps	Allowed 26/07/22 see appendix C
2/10	Hollingwood & Inkersall ward	Georgia Smart	CHE/22/00076/FUL – Extension at 2 Tansley Way. Refusal	Officer delegation	25/5/22	Written Reps	Dismissed 02/08/22 see appendix D
2/4084	Middlecroft & Poolsbrook ward	Mr M Bellfield	CHE/21/00508/FUL – 3 dwellings on land adjacent to St Josephs Church, Chesterfield Road, Staveley Refusal	Officer delegation	13/06/22	Written Reps	
2/4150	West ward	Mr D Pogson of 31 Storrs Road	CHE/22/00250/TPO – Felling 2 Beech trees at 25a Storrs Road Refusal	Officer delegation	21/06/22	Hearing	
2/2610	Lowgates & Woodthorpe ward	Mr N Rush	CHE/22/00005/FUL - extension and garage at 17 Bellhouse Lane Refusal	Officer delegation	04/07/22	Written Reps	

Appendix A

Appeal by Mrs Sheila Blankley

3 No Eco single storey dwellings on land at The Dumbles, Inkersall Green Road, Inkersall, Chesterfield.

CHE/21/00761/OUT

1. Planning permission was refused on 26th January 2022 for 3 No Eco single storey dwellings on land at The Dumbles, Inkersall Green Road. The reasons for refusal were:
In the opinion of the Local Planning Authority, the proposed development is considered to be overdevelopment of the application site and this is contrary to the identified and noted character of the immediate area which is formed by large bungalows set within large plots. Owing to the overdevelopment proposed, the indicative layout shows a layout that results in properties and plots that are contrary to this established grain of the area and the application does not suggest that development of this scale is achievable without harming the character of the area. The proposal is therefore considered to be out of character and does not respect the distinctiveness of the area and as a result is therefore contrary to the provisions of CLP20.
2. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
3. The main issue was the effect of the development on the character and appearance of the locality.
4. The site consists of a detached bungalow surrounded by a large sloping garden. Accessed via a driveway at the south-western extent of the plot, adjacent to a bungalow known as Ringwood View. The garden is bordered by fencing which, on the eastern boundary, is augmented by some hedge and tree planting in a neighbouring site. The boundary fencing fronting on to Inkersall Green Road lies above an embankment forming part of the local road cutting.
5. The site lies within a predominantly residential area of mixed age buildings. To the north of Inkersall Green Road the area consists of mainly detached bungalows and 2-storey houses in various sized plots. Although there are some clearly identifiable phases of grouped houses, the locality has seen a

number of infill developments. These include bungalows adjacent to the site, which are accessed from Huntley Close. Additionally, a recent large dwelling called Sita fronts on to Inkersall Green Road to the east alongside successive modern cul-de-sac developments.

6. To the south of Inkersall Green Road, development lies beyond a mature screen of hedging and trees. It is set behind a separate estate road and a green space and consists of closely spaced semi-detached pairs. These houses play a limited role in the Inkersall Green Road frontage.
7. Subject to meeting detailed design requirements, the proposed use of the site would be compatible with the surrounding residential land uses. Although any additional unit/s would increase the density of development upon on the site, in the context of the surrounding variety of plot sizes and the mixed grain of development, the inspector fully anticipated that a scheme could be designed to reflect the characteristic mixed scale and pattern of development in the locality.
8. In this regard, the inspector noted that the Council has carried out an assessment of local housing densities. However, given the identified degree of local variation, lack of uniformity and the extent of recent infill developments making effective use of land, the inspector found a proposal reflecting that local character would be acceptable in principle. It would also align with the benefit stated in Policy CLP20 of the Chesterfield Borough Local Plan [2020] (the LP), which acknowledges that increased densities of development in close proximity to service centres will assist in reducing CO2 emissions.
9. Furthermore, as the site is enclosed by existing development on 3 sides and has a largely inactive frontage due to the elevated position of the land above the adjacent road level, any visual effect caused by an additional single storey unit/s would be very limited. Alternatively, it could provide an opportunity to enhance the local streetscene.
10. The inspector noted the Council's concern that a development in accordance with the submitted indicative plans could give rise to an overdevelopment of the site. The inspector also acknowledged that a previous scheme (Ref

CHE/09/00728/FUL) at the site was dismissed at appeal in 2010. However, as the proposal is submitted in outline with all matters but access reserved **and** the description of development does not fix the amount of new units within the stated limit, it is within the remit of the Council to determine such acceptability, or otherwise, on the merits of any detailed scheme for the layout and appearance of the site. This could include minimum garden size requirements and consideration of the proximity to the highway.

11. For the above reasons, the inspector found that the principle of residential development on the site could be made acceptable with regard to the character and appearance of local development. This would be consistent with the requirements of Policy CLP20 of the LP as it requires development to respond positively to the character of the site and surroundings, including its function and density, but not excluding higher densities close to local centres.

Other Matters

12. There was no dispute between the main parties that the existing single point of access to the site would provide a suitable and safe means of access to the highway network. Having visited the site, the inspector found no reason to disagree with that conclusion. As a modest scale of development, the proposal would not have a material effect on highway capacity in the locality. Furthermore, the site lies close to services whereby reliance on private motorised vehicles would potentially be limited given their accessibility and subsequent practicality of utilising alternative transport modes.
13. The effect of a proposed residential development on trees within and close to the site may require assessment once the detailed position of any building/s have been formally proposed. This is a matter which would be appropriately addressed at a reserved matters stage.
14. The inspector noted neighbours' concerns with regard to the potential for noise, fumes, loss of light and outlook. As issues dependent on the detail of the reserved matters, when the quantum and arrangement of development would be set,

these would be assessed on submission of those details. Site drainage detail is a matter which can be secured through planning condition/s.

15. The inspector acknowledged concerns in respect of the proximity of the site to the Green Belt. However, in making use of an existing urban site, the proposal would reflect a purpose of the Green Belt. Visibility to or from the Green Belt, or views across the site are matters of limited weight.
16. Concerns were raised by third parties in respect of the use of the site by various forms of wildlife, including squirrels and foxes; however, there was little substantive evidence to support those claims. The inspector was therefore unable to attribute significant weight to this argument.

17. **Conditions**

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg.01 Site Location Plan and Drg.02 Topographical Survey and Highway Survey October 2021.
- 5) The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.
- 6) 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 of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

7) 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.

A.

- 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 in 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 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.

8) Prior to the commencement of the development, details of the existing and proposed land levels and the proposed floor levels of the dwelling/s hereby approved shall be submitted to the Local Planning Authority for consideration. The details submitted shall include sufficient cross sections to fully assess the relationship between the proposed levels and immediately adjacent land/dwellings. The dwelling/s shall be constructed at the levels approved under this condition.

9) Any new dwelling constructed on the site shall not be occupied until space has been provided within the site curtilage for the parking of vehicles, located, designed, laid out, constructed and maintained throughout the life of the development free from any impediments to its designated use.

10) Before construction works commence or ordering of external materials takes place, precise specifications or samples of the external walling and roof 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.

11) Prior to the first occupation of the development hereby approved, details of ecological enhancement measures to be implemented at the site to provide biodiversity net gain shall be submitted to the Local Planning Authority for consideration. Appropriate ecological enhancement measures shall be proposed (such as bird and/or bat boxes) and the details submitted shall include the number of units proposed and the location proposed. The ecological enhancement measures agreed in writing shall be implemented on site prior to the development hereby approved being brought into first use. The ecological enhancement measures shall remain for the duration of the development.

12) Construction work shall only be carried out between 0800 to 1800 hrs Monday to Friday and 0900 to 1700 hrs on Saturdays. 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.

13) A residential charging point shall be provided at the dwelling/s 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.

14) Details of any proposed external lighting shall be submitted to the local planning authority prior to the ordering of any lighting. Only the agreed lighting shall be incorporated into the approved scheme. All external lighting shall be designed to control glare and overspill to neighbouring residential properties.

This page is intentionally left blank

Appendix B

Appeal by Mr David Cochrane

Single storey side extension at 128 Brushfield Road, Chesterfield. CHE/22/00080/FUL

1. Planning permission was refused on 21st April 2022 for a single storey side extension at 128 Brushfield Road. The reasons for refusal were:
The development would introduce a physical form in an area of the application site that has been designed to be left open with soft landscaping where this openness forms the prevailing character of the immediate surrounding area. The proposed extension would therefore result in development that would be at odds with and harmful to the character of the surrounding area contrary to Local Plan policy CLP20 and Part 12 of the NPPF.
2. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
3. The Council raised no objections to the effect of the proposed development on the living conditions of neighbours and the inspector found no reason to disagree. The main issue was the effect of the proposal on the character and appearance of the surrounding residential area.
4. The appeal property is a bungalow on a spacious corner plot at the junction of Brushfield Road and Corve Way. The proposed extension would be 3.0m wide and would extend the full depth of the bungalow. At present the side boundary wall and vegetation is set back approximately 3.0m from the edge of the footway in Corve Way, and as part of the scheme it is proposed to erect a new fence closer to the edge of the footway to incorporate land within the appellant's ownership as additional garden space.
5. Amongst other things, Policy CLP20 of the Chesterfield Borough Local Plan (LP), adopted July 2020, says development should respond positively to the character of the site, surroundings, and local distinctiveness by virtue of its function, appearance, style, landscaping, scale, massing, detailing, height and materials.

6. Arising from the introduction of built form in a currently landscaped area, the incorporation of an area of grass verge within the private garden, and the erection of a new fence closer to the highway, the Council was concerned that the proposal would harm the open and landscaped character of the area around the junction and that of the surrounding area more generally.
7. It is true that the section of Brushfield Road in the immediate vicinity of the appeal site is characterised by wide open verges and unenclosed front gardens. However, further along the road in both directions the grass verges are very narrow, and the frontages of the properties tend to be dominated by parking and other hard landscaped areas. Furthermore, the bungalow plot on the opposite side of the junction is partly enclosed by a low boundary wall and other, varied frontage treatments are found elsewhere on the estate and contribute to the character of the area.
8. Overall, there is no marked consistency or uniformity in the layout of the plots and boundary treatments in the surrounding residential area, including that of comparable corner plots. Although spaciouly laid out with many front gardens being open to view from the street, it is not a wholly 'open plan' estate. In the inspectors view the area is typically suburban in character and exhibits no strong prevailing character or especially local distinctiveness.
9. As the proposed extension would be flush with the front elevation, and no enclosure proposed on that frontage, there would be no adverse impact on the unobstructed views across the generally open front gardens and wide verges in both directions along this part of Brushfield Road. To the side, and although the width of the wide grass verge fronting Corve Way would be significantly reduced by the proposed development, a strip of verge would remain and a sense of spaciousness and open character around the junction would still be maintained.
10. Paragraph 130 of the *National Planning Policy Framework* (the Framework) says planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and the surrounding built

environment. In this case the inspectors overall judgement is that the proposed development would not materially harm the character and appearance of the surrounding residential area. As such, the inspector found no conflict with the relevant criteria of LP Policy CLP20 or the objectives of the Framework Paragraph 130.

Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Layout Rev A, Proposed Elevations Rev A, and Block Plan Rev A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
- 4) Notwithstanding condition 2) above, no development shall take place until details of the proposed fence to the Corve Way frontage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

This page is intentionally left blank

Appendix C

Appeal by Mr Terry Ward obo Chesterfield Football Club
48 sheet Advertisement on frontage of Proact Stadium site,
Sheffield Road, Chesterfield.
CHE/21/00870/ADV

1. Planning permission was refused on 21st March 2022 for a 48 sheet advertisement on the frontage of Chesterfield Football Club Proact Stadium. The reasons for refusal were:

The proposed installation of a digital advertising display of this size and at this location is considered to be harmful to the character and amenity of the site and wider locality. The proposal would result in harm to the visual amenity of a soft landscaped area which includes TPO trees and more juvenile trees secured as part of the development of the stadium, as well as being detrimental the visual amenity of the wider stadium site. In addition, the proposal would be over dominant within the street scene and would raise concerns regarding public safety by virtue of its scale and siting and the resulting potential for distraction to road users in relation to the public highway. This harm to amenity and public safety is contrary to the provisions of the NPPF (para 136), Local Plan Policy CLP20 relating to visual amenity, Policy CLP22 in relation to highway safety, and the Advertisements Supplementary Planning Document (2007).

2. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
3. The main issues were the effect of the proposed advertisement on the amenity of the area and on public safety.
4. Powers under the Regulations require decisions to be made only in the interests of amenity and public safety, taking into account the provisions of the development plan so far as they are material, and any other relevant considerations.
5. The Council referred to Policies CLP20 and CLP22 of the *Chesterfield Local adopted 2020 (LP)*. Whilst CLP20 refers to design rather than to applications for advertisement consent, the inspector recognised that one of its underlying aims is for proposals to respond to local character and respect the local

distinctiveness of its context. Policy CLP22 says development proposals will not be permitted where they would have an unacceptable impact on highway safety.

6. The proposal is for a 48-sheet freestanding digital advertising unit measuring 6.2m wide by 3.2m high, with the base of the display about 2.0m above ground level. The display would be sited close to the back of the Sheffield Road footway but within a landscaped area between the road and the Stadium car park. There are a number of trees in this landscaped area along the Sheffield Road frontage of varying maturity. The mature trees are protected under a Tree Preservation Order and the young trees are part of the landscaping scheme for the development of the Stadium site.
7. With regard to considerations affecting amenity, Paragraph 79 of the Planning Practice Guidance (PPG) says consideration should be given to the local characteristics of the neighbourhood, and whether the advertisement is in scale and in keeping with these features. Paragraph 136 of the National Planning Policy Framework (the Framework) says the quality and character of places can suffer when advertisements are poorly sited and designed. Although it makes no specific reference to this type of advertisement, the Advertisements Supplementary Planning Document (SPG) acknowledges that advertisements are important in the functioning of the wider economy, but says their display needs to be carefully balanced against the requirement to ensure that they do not have a damaging impact upon the environment or jeopardise public safety.
8. The immediate surroundings are almost wholly commercial in character, where advertising is generally considered to be more appropriate. Although the proposed display would be larger than other commercial signs in the locality, the inspector did not consider it would appear unduly prominent or incongruous in this type of setting. It would relate to the large scale of the Stadium building and the recently developed Glass Yard development opposite and be seen against the immediate background of the trees behind the display. These would soften and mitigate its impact. When the advertisement is seen in this context, the inspector considered it would be appropriate in scale, and not out of keeping.

9. Moreover, whilst there are other advertisements nearby of various types and sizes nearby, the area is not cluttered with signage. As such, the introduction of this single digital display would not materially detract from the character and appearance of this busy commercial area and transport corridor.
10. The inspector commented that his findings should not be taken as an indication that he disagreed with the thrust of the Council's policies for effective control over the display of advertisements. However, each proposal must be considered on its own merits and the appropriate amenity test is not whether an advertisement would positively contribute to the amenity of an area, but rather whether it would detract from the amenity of the area. On this occasion the inspector concluded on this issue that the proposal would not be harmful to the amenity of the area.
11. More detailed guidance concerning public safety considerations are set out in PPG 067. This acknowledges that advertisements are intended to attract attention, but advertisements at those points where drivers need to take more care are more likely to affect public safety. Digital advertisements of the size and form proposed are commonly found in an urban transport network. Consequently, having regard to the PPG, they are not of an 'unusual' nature and are generally unlikely to distract road users in normal driving conditions.
12. There is always the potential for a driver to be distracted by a digital display, but in this case, the highway is reasonably straight and well-lit with good forward visibility allowing drivers to glance the sign well in advance on the approach. Nor is the section of Sheffield Road in the vicinity of the site complex or particularly challenging, and there is no necessity for a heightened level of concentration by drivers and pedestrians on the approach to and in the vicinity of the display. Furthermore, the sign would be seen against a background of trees and larger buildings beyond which would soften its immediate impact.

13. There is nothing in the inspectors view to indicate that the proposed advertisement would be sited in a location that is potentially dangerous or would be likely to materially harm highway safety. Furthermore, the Highway Authority were consulted and have raised no highway safety objections, recommending that a number of conditions be imposed if consent were granted. Overall, on this issue the inspector concluded that the proposal would not be harmful to public safety.

Conditions

The appeal is allowed, and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations, and the following additional conditions:

- 1) The maximum level of illumination shall be no more than 300 c/m² during hours of darkness (dusk until dawn) and 600 c/m² during daytime hours. The level of luminance of the advertisement display shall be controlled by means of ambient environmental control sensors that measure ambient light levels and automatically control the perceived brightness to within the limits set by this condition.

- 2) The advertisement display shall contain at all times a feature that will turn off the screen (i.e., show a black screen) in the event that the display experiences a malfunction or error.

- 3) No individual advertisement on the LED screen will contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.

- 4) There shall be a smooth and uninterrupted transition from one image to another. Transitions shall be instantaneous, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Appendix D
Appeal by Miss Georgia Smart
Orangery to side of 2 Tansley Way, Inkersall, Chesterfield.
CHE/22/00076/FUL

1. Planning permission was refused on 13th April 2022 for an orangery extension to the side of 2 Tansley Way. The reasons for refusal were:

This proposal is considered to be an inappropriate development due to its width, roof design and positioning to the front corner of the site in a visually prominent location. The proposal would thereby appear out of keeping in the area which would be incongruous in the street scene and appear harmful to visual amenity, which is contrary to the Council's Supplementary Planning Document 'Successful Places' (section 3.16 Building Design), Policy CLP20 of the Chesterfield Borough Local Plan and paragraph 130 of the revised National Planning Policy Framework.

2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
3. The main issue in this case was the effect of the proposal on the character and appearance of the host dwelling and the street scene within which it sits.
4. The appeal relates to a semi-detached bungalow which enjoys an elevated and prominent corner position within Tansley Way. Tansley Way is home to a mix of semi-detached and detached bungalows of a broadly similar design and their largely open frontages are a noticeable and positive element of the street scene.
5. The appeal dwelling currently has a modest conservatory added to its side elevation, set back from the front elevation. Given the limited depth of this addition, it sits comfortably alongside the dwelling and does not appear overly prominent within the street scene. The proposal seeks to replace this conservatory with a deeper and more substantial structure which would protrude slightly forward of the principal elevation of the host dwelling.

6. The inspector was mindful that the planning application did not generate any formal objections from nearby residents or Ward Members. Nevertheless, given the additional depth, the greater proportion of brickwork and the fact that the extension would protrude beyond the principal elevation of the host dwelling, the inspector considered that it would be a significantly more substantial structure and it would appear as a somewhat awkward and disjointed addition.
7. Bearing in mind the exposed corner position of the host dwelling, the inspector considered that the adverse visual effect would appear overly dominant within the street scene, thereby harming its well ordered character and appearance.
8. The Appellant asserted that the arrangement of the dwelling would be reconfigured by wrapping fencing from the driveway to the boundary line. However, the principal elevation of the dwelling would still read as it does now and the fencing would not adequately mitigate the visual harm the inspector described, not least because the extension would be readily visible above it.
9. The Appellant referred to other extensions within the local area and specifically to one at No. 6 Tansley Way. A single storey extension has been added to the front of this property, but it sits between other dwellings. It does not enjoy a prominent corner position and therefore this extension and its setting is not directly comparable to the proposal which the inspector considered on its individual merits.
10. The inspector concluded that the proposed orangery would harm the character and appearance of the host dwelling and the street scene within which it sits. In such terms, it conflicts with policy CLP20 of the adopted Chesterfield Borough Local Plan and the Council's adopted Supplementary Planning Document titled '*Successful Places*' which promote high quality design that responds positively to the character of the site and its surroundings. The arguments advanced by the Appellant did not outweigh the visual harm and the associated policy conflict.

Appendix E
Appeal by Mr Ian Hooper
Detached Garage at 1 Oakfield Avenue, Chesterfield.
CHE/21/00909/FUL

1. Planning permission was refused on 4th February 2022 for a detached garage at 1 Oakfield Avenue. The reasons for refusal were:

The development is considered to present an incongruous addition to the streetscene which is noted to be characterised by a tree lined street with built form set back from the highway. The proposed garage is therefore considered to be at odds with the established character of the area at the junction of Oakfield Avenue and Linden Avenue at the entrance to the Park. As such the proposal is contrary to the requirements of Policy CLP20 of the Adopted Local Plan and Part 12 of the NPPF in seeking a form of development that identifies and responds positively to the character of the site and surroundings, respecting the character, form and setting of the site and surrounding area by virtue of its siting, appearance and scale.

2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
3. The main issue in this case was the effect of the proposed development on the character and appearance of the surrounding area.
4. The appeal property is a large, detached, cream rendered two storey property. Although the appeal property contributes to the varied design character of the wider area, like many of the detached properties in the vicinity, it is set back from the highway with hard surfacing to the front and side along with a front lawned area. This, combined with the tree lined street and the park adjacent to the appeal property gives the area a verdant and spacious feel at this prominent location opposite the junction of Oakfield Avenue and Linden Avenue.
5. The proposed double garage would be positioned to the front of the property on an existing area of lawn. The gable end of

the garage would face the street with the two garage doors positioned on the western elevation. Whilst the inspector recognised that the proposal has been reduced in size from a previous application, it would still remain large and appear prominently in this location, reducing the openness currently experienced at the front of this property. Furthermore, there is a strong building line to the four properties adjacent to the appeal site, with no buildings or garages forward of the principal elevation. This sense of space at the front of dwellings is a prevailing characteristic of the area, which would be eroded by the proposal, detracting from the character and appearance of the area at this spacious location.

6. The inspector acknowledged that the building line on the same side of the road as the appeal site has been disrupted by a large, detached garage prominently positioned at the front of number 17 Oakfield Avenue. Whilst there are some design similarities between this and the proposal, the inspector was not persuaded that this example, which is one of seven examples of garages to the front of properties, along or off from Oakfield Avenue that the appellant directed the inspector towards, serves to justify the proposal.
7. Regarding the other examples, the inspector considered these to be more of an exception to the prevailing character of the vicinity rather than the norm. Of the further six highlighted, two of them are on a cul-de-sac off Oakfield Avenue, some distance from the appeal property where the character of the properties are different and it is not in as prominent a location, whilst another is set back considerably from Oakfield Avenue and not readily visible in the streetscene. Number 21 Oakfield Avenue is an integral garage as part of a bungalow, marginally protruding from the front elevation and another is a single garage at number 4A Oakfield Avenue, and therefore these are not comparable in scale or design to the appeal proposal. The example at number 6 Oakfield Avenue, whilst sharing some design similarities with the appeal, the inspector found does not justify the proposal, nor is it in as prominent location as the appeal proposal before me.

8. The inspector recognised that the potential for a replacement tree would assist in screening the proposal, however this would only provide partial visual mitigation, and it would still in all probability be more visible during the winter months in particular, if the tree sheds its leaves. Screening from the tree would not be permanent and therefore would not mitigate against the visual harm of the garage.
9. For the reasons outlined above, the inspector found the proposal would have an adverse impact on the character and appearance of the surrounding area and consequently fails to accord with Policy CLP20 of the Chesterfield Borough Local Plan (2020) which seeks to ensure that development respects the character and appearance of the area.
10. No concerns were raised by the Council in relation to the living conditions of the occupiers of the neighbouring property. From the evidence before the inspector and his observations on site, as a result of its siting and the existing boundary treatment he had no reason to disagree with this conclusion. However, the inspector confirmed this did not outweigh the harm that he had already identified.

This page is intentionally left blank

FOR PUBLICATION Agenda Item 8

ENFORCEMENT REPORT

MEETING: PLANNING COMMITTEE
DATE: 30TH AUGUST 2022
REPORT BY: HEAD OF REGULATORY LAW
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD: As listed in the report

FOR PUBLICATION

TITLE: Non-exempt papers (if any) on relevant files

BACKGROUND PAPERS

LOCATION: LEGAL SERVICES

1.0 PURPOSE OF REPORT

1.1 For non-exempt information about current formal enforcement progress.

2.0 BACKGROUND

2.1 The table summarises formal planning enforcement by the Council.

3.0 INFORMAL ACTION

3.1 Formal enforcement is a last resort, with most planning problems resolved without formal action (in accordance with government guidance). More information on informal enforcement is available from the Enforcement team.

4.0 MORE INFORMATION ABOUT THE TABLE

4.1 A summary of the main types of planning enforcement action available to the Council and penalties for non-compliance is available from Legal Services.

5.0 RECOMMENDATION

5.1 That the report be noted.

GERARD ROGERS
HEAD OF REGULATORY LAW

PAUL STANIFORTH
DEVELOPMENT MANAGEMENT
& CONSERVATION MANAGER

Further information on this report from Gerard Rogers, Regulatory Law
Tel 01246 936471 or email gerard.rogers@chesterfield.gov.uk

ENFORCEMENT REPORT

Enforcements currently Authorised: 7

11 August 2022

Address	Authorised <small>days from</small>	Breach	CHE/	Issued <small>days to issue</small>	Effective <small>days to (-) /from</small>	Comply <small>days to (-) /from</small>	Notes	update <small>last update</small>	Ward	
Breach of Condition Notice		<i>Total currently Authorised: 1</i>			<i>Authorised to Issue Average: 540 days</i>					
York Street	2 <small>1,053</small>	23/09/19 <small>1,053</small>	balcony, canopy and french door	17/00800/FUL <small>540</small>	16/03/21 <small>513</small>	16/03/21 <small>482</small>	16/04/21 <small>482</small>	Issued. One month to submit details. Then 6 months after approval to carry out works. Not complied. Prosecute - awaiting instructions.	<input type="checkbox"/> <small>18/03/21</small>	Ha
Enforcement Notice		<i>Total currently Authorised: 4</i>			<i>Authorised to Issue Average: 31 days</i>					
Inkersall Road	2 Inkersall Farm Cottages	16/05/22 <small>87</small>	unauthorised vehicular access					Instructed	<input type="checkbox"/> <small>01/06/22</small>	HI
Markham Road	Markham House	18/02/08 <small>5,288</small>	storage of commercial vehicles		20/03/08 <small>31</small>	18/04/08 <small>5228</small>	20/10/08 <small>5043</small>	Complied by 2009. Unauthorised use has started again. Prosecute - awaiting instructions.	<input type="checkbox"/> <small>14/11/19</small>	HI
Pottery Lane West	10	18/07/22 <small>24</small>	Storage of vehicles					Awaiting instructions	<input type="checkbox"/> <small>27/07/22</small>	Mo

Address		Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
York Street	2	09/10/17 <i>1,767</i>	conversion and extension of roof space	17/00800/FUL				Flat conversion approved 03/04/18, conditions requiring removal of balcony, canopy, french windows appealed, but dismissed 18/12/18. Not complied with conditions. BCN served - see separate entry.	<input type="checkbox"/> <i>19/12/18</i>	Ha

Page 325

Section 215 Amenity Notice

Total currently Authorised: 2 Authorised to Issue Average: days

Highfield Road	80	05/10/20 <i>675</i>	Removal of debris and waste					Update report 15/02/21. Working with occupier and representative with view to progress without formal action.	<input type="checkbox"/> <i>15/02/21</i>	SH
Tapton Terrace	26	05/10/20 <i>675</i>	removal of Heras fencing and erection of new boundary fence, removal of vans, debris and waste					Update report 15/02/21. Progressing without formal action.	<input type="checkbox"/> <i>15/02/21</i>	SL

Address	Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
----------------	---------------------------------------	---------------	-------------	---------------------------------------	--	---	--------------	-------------------------------------	-------------

Action authorised by Committee except Breach of Condition, Planning Contravention, Section 215 Notices, Advertisement Discontinuance, prosecutions and urgent action which are authorised by officers

Key to Ward abbreviations: BNW Barrow Hill and New Whittington • BN Brimington North • BS Brimington South • B Brockwell • D Dunston • Ha Hasland • Hb Holmebrook • HI Hollingwood and Inkersall • L Linacre • LG Loundsley Green • LW Lowgates and Woodthorpe • MP Middlecroft and Poolsbrook • Mo Moor • N Newbold • OW Old Whittington • R Rother • SH St Helens • SL St Leonards • Wa Walton • We West

*SJP - single justice procedure: prosecutions dealt with by the Magistrates Court on paper without a hearing in open court
CV-19 - coronavirus implications for enforcement or compliance*

By virtue of paragraph(s) 6a of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank