



Please ask for Emily Taylor  
Direct Line: 01246 345236  
Email [democratic.services@chesterfield.gov.uk](mailto:democratic.services@chesterfield.gov.uk)

The Chair and Members of Planning Committee

Councillors Borrell, P Niblock and S Niblock – Site Visit 1  
Councillors Marriott, Rayner and Simmons – Site Visit 2  
Councillors Bingham, Holmes and Thornton – Site Visit 3  
Councillors Caulfield and Rogers – Site Visit 4

3 March 2023

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on MONDAY, 13 MARCH 2023 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 10:20am. Ward members wishing to be present should attend on site as indicated below:-

1. 10:40am 20 Somersall Lane, Chesterfield  
CHE/22/00607/FUL

Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield S40 1LP

Telephone: 01246 345 345, Text: 07960 910 264, Email: [info@chesterfield.gov.uk](mailto:info@chesterfield.gov.uk)

[www.chesterfield.gov.uk](http://www.chesterfield.gov.uk)

2. 11:10am Dunston Hall, Dunston Road, Chesterfield  
CHE/22/00784/FUL
3. 11:45am 66 South Street North, New Whittington  
CHE/22/00592/OUT
4. 12:10pm Simply Gym, Sheffield Road, Chesterfield  
CHE/22/00680/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, unless a reasonable adjustment is in place by prior arrangement. 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.

A reasonable adjustment meeting will take place at 10am in Committee Room 1 for those not able to attend the site visits.

Ward members are invited to attend on site and should confirm their attendance by contacting Emily Taylor on tel. 01246 3452 or via e-mail: [Emily.Taylor@chesterfield.gov.uk](mailto:Emily.Taylor@chesterfield.gov.uk) by 9.00 a.m. on Monday 13 March. 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 - 26)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 27 - 136)
5. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 137 - 148)
6. Applications to Fell or Prune Trees (P620D) (Pages 149 - 154)
7. Appeals Report (P000) (Pages 155 - 162)

8. Enforcement Report (P410) (Pages 163 - 166)

Yours sincerely,

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

Head of Regulatory Law and Monitoring Officer

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## PLANNING COMMITTEE

Monday, 20th February, 2023

Present:-

Councillor Callan (Chair)

Councillors Bingham  
Brady  
Brittain

Councillors Catt  
Caulfield  
Marriott

The following site visit took place immediately before the meeting and was attended by the following Members:

**CHE/21/00879/FUL** – Residential development of 15 dwellings with access, landscaping and associated works on development land west of Loundsley Green Road, Loundsley Green for Strata.

Councillors Brady, Brittain, Callan, Caulfield and Marriott.

Councillors Bingham and Catt were unable to attend on site and received relevant site information by other means as a reasonable adjustment.

\*Matters dealt with under the Delegation Scheme

**106 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Barr, Borrell, Davenport, G Falconer, T Gilby and Mann.

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

No declarations of interest were received.

**108 MINUTES OF PLANNING COMMITTEE**

**RESOLVED -**

That the Minutes of the meeting of the Planning Committee held on 30 January, 2023 be signed by the Chair as a true record.

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

The Committee considered the under-mentioned applications in light of reports by the Development Management and Conservation Manager and resolved as follows:-

CHE/21/00879/FUL - RESIDENTIAL DEVELOPMENT OF 15 DWELLINGS WITH ACCESS, LANDSCAPING AND ASSOCIATED WORKS ON DEVELOPMENT LAND WEST OF LOUNDSLEY GREEN ROAD, LOUNDSLEY GREEN FOR STRATA

In accordance with Minute No. 299 (2001/2002) Mrs Claire Linley (Head of Planning, Strata Homes) addressed the meeting and with Mr Martin Monahan (Strata Homes) answered questions from members.

**\*RESOLVED –**

A. That the officer recommendation be upheld and the application be approved subject to completion of a Section 106 agreement relating to:

- A commuted sum of £21,000 to CBC with 10% contingency, to be paid on commencement for upgrade of footpath to the east of the site.
- Payment of an affordable housing contribution of £397,471 in lieu of onsite provision to be paid prior to first occupation, with a clause allowing for an increase in the contribution dependent upon achieved sales values.
- A commuted sum Biodiversity net gain of 3.17 habitat units at £20,000 per unit to CBC = £63,400 to be spent within the Borough and paid prior to first occupation.

And subject to the following conditions and that a CIL liability notice be issued as per section 5.13 of the officer's report:-

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 conditional requirement below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
  - Location plan: Dwg: 21-CL6-SEGD-CHL-01 Rev: A Received 06.12.2021
  
  - Site layout: 21-CL6-SEGD-CHL-01 Rev H 23.11.2022
  
  - House Type Naples: TA-(21)-501 received 29.11.2021
  
  - House Type Valencia: TA-(21)-502 received 29.11.2021
  
  - Landscaping plan: P21-2648.001 Rev E received
  
  - Off site drainage connections 0461 Rev P2 received 25.01.2023
  
  - Off site drainage connections 0460 Rev P3 received 25.01.2023
  
  - Materials plan: plan no. 21-CL6-SEGD-MBSP-01 Rev B received 29.06.2022
  
  - Close Boarded Fencing 1.8m High Dwg: SD10.EX.17 Received 29.11.2021
  
  - Boundary plan SD10.EX.24 Rev A acoustic fence received 29.06.2022
  
  - Knee rail SD10.EX.22 Rev S received 29.06.2022
  
  - Fence detail Destination 18 EX.17 received 29.06.2022
  
  - Street scene Rev A received 29.06.2022
  
3. Works shall be completed on site in full accord with the submitted construction management and mitigation plan and the production management plan no. BM00108-PMP Rev A.

4. Within 2 months of the commencement of development details of all the highway works (including; finished levels, gradients and surfacing) shall be submitted to and approved in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

5. The carriageways and footways shall be constructed in accordance with the details approved plans, up to and including binder 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/proposed public highway. Until final surfacing is completed, the footway binder course shall be provided in a manner to avoid any upstands to gullies, covers 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.

6. The dwellings, the subject of the application, shall not be occupied until the site has been provided with suitable turning arrangements to enable service and delivery vehicles to turn, all as may be agreed in writing with the Local Planning Authority in writing. In the case where interim turning arrangements are constructed these must remain available until any permanent turning head is available, in accordance with the approved designs.

7. No dwelling shall be occupied until space has been provided within the site curtilage / plot for the parking and manoeuvring of residents and visitors' vehicles associated with that dwelling, all to be laid out, constructed and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

8. 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 or extensions shall be erected to the side or rear of plots 1, 11, 12, 13, 14 and 15; without the prior written approval of the Local Planning Authority upon an application submitted to it.

9. The development shall be completed in full accordance with the sustainability statement dated November 2021, including the provision of solar PV and EV charging to each dwelling hereby approved.

10. Prior to the installation of services and lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. The woodland edge habitats 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. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

11. The development shall be constructed and completed in full accordance with the submitted ecology report and enhancements

- bat boxes to Plots 1 and 15.
- swift boxes to all remaining plots.
- gaps 130 mm x 130 mm in garden fencing to maintain connectivity for hedgehogs.

12. Prior to the commencement of the development tree protection measures shall be installed on site in strict accordance with the submitted Arboricultural Method Statement dated November 2021 and under the supervision of a suitably qualified tree specialist. Such measures shall be retained in place throughout construction works. The development shall be completed in full accordance with the AMS.

13. The soft landscaping of the site shall be completed in full accordance with plan P21-2648.001 Rev E, all completed prior to final occupation of the development.

14. 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 Ecological Impact Assessment by Whitcher Wildlife Ltd dated 18.05.2022, to meet the habitat gains set out in the Biodiversity metric calculation and landscaping of the site agreed under condition 13 above.

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.

15. In line with the proposed street scene sections a scheme detailing all proposed finished floor and land levels, with street scene and sections provided across the site frontage and within the site, shall be submitted to and approved in writing by the Local Planning Authority prior to development platforms being completed. The development shall be carried out in accordance with the approved scheme.

16. The pedestrian link to the adjacent public right of way shall be installed on site and be available for use prior to the completion of the development.

17. All external materials and hard surfacing shall be in line with the details on plan no. 21-CL6-SEGD-MBSP-01 Rev B.

18. The development shall be completed in accordance with the recommendations of the noise impact assessment dated 30.05.2022 by ENS Ltd.

19. a) Boundary treatments shall be in accordance with the details on plan no. 21-CL6-SEGD-CHL-01 Rev G.

b) In line with the above plan and prior to their installation, details including materials, of all retaining boundary walls shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

20. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 8:00 am to 2:00 pm on a Saturday. Staff shall be allowed access only onto site Monday to Friday from 7.30am. 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.

21. No development above ground shall commence until; 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.

22. Prior to the occupation of the development or it being taken in 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.

23. 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.

24. The site shall be developed with separate systems of drainage for foul and surface water on and off site. In addition, the peak pumped foul water discharge shall not exceed 4.75 litres per second.

25. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

26. 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. The Site Specific Flood Risk Assessment Dated November 2021, Doc Ref: P21025- SsFRA\_A Loundsley Green Strata “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.

27. The site shall be developed in accordance with the ‘RSK Geosciences’ document titled: Surface Water Management Plan (Ref: 302498-R01(01)) received 30<sup>th</sup> August 2022.

28. The above surface water attenuation should not be brought into use until such a time as it is fully designed and constructed in line with a scheme to be submitted to and approved in writing by the Local Planning Authority.

29. Prior to the first occupation of the development, a verification report carried out by 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).

30. The development shall be completed in line with the submitted Employment and Training Scheme received 14.04.2022.

31. 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.

32. a) Works on site shall be undertaken in accordance with the recommendations of the following reports:

- Phase 2 Geo Environmental Assessment (Ref: NTE2269)

- Coal Mining and Geotechnical Appraisal (Ref: 4158/2 Date: November 2021)

- Earthworks Specification (Ref: 4158/4 Date: December 2021)

- Specification for the Treatment of Shallow Workings & Mine Entries (Ref: 4158/3 Date: December 2021)

Including any additional chemical and gas testing for on-site material or for material for movement and deposition off site along with the formulation of appropriate remediation based on the findings of the recommended assessments.

b) 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 above reports then the revised remediation shall be submitted to and approved in writing by the Local Planning Authority;

c) 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.

B. That a CIL liability notice be issued for £176,452 as per section 5.13 of the officer's report.

**110 APPLICATIONS FOR PLANNING PERMISSION - PLANS DETERMINED BY THE DEVELOPMENT MANAGEMENT AND CONSERVATION MANAGER (P140D)**

The Development Management and Conservation Manager reported that pursuant to the authority delegated to him, he had determined the under-mentioned applications subject to the necessary conditions:-

(a) Approvals

CHE/21/00252/FUL	Erection of one 4 bedroomed house at Land Adj 20 Rushen Mount, Birdholme S40 2JU for Mr Andrew Parsons
CHE/22/00370/OUT	Outline application for the erection of a dwelling with reserved matters for access and layout at 30 Holland Road, Old Whittington, Chesterfield S41 9HF for Mr J Cocker
CHE/22/00386/FUL	Side extension to provide annexe accommodation for dependent relative at 222 Handley Road, New Whittington, Chesterfield S43 2ER for Mr Alan Clarke
CHE/22/00491/REM	Approval of all reserved matters for Plot 6 (in connection with outline permission CHE/15/00291/REM1 for CBC and outline permission: 15/00479/OL for NEDDC) for the erection of 4 no. Class B2/B8 units with office space and associated works at Land At Enterprise Way, Enterprise Way, Duckmanton, Chesterfield S44 5FD for HBD.

- CHE/22/00582/FUL Canopy extension to existing service yard at Rillatech Ltd, Prospect Park, Dunston Way, Chesterfield S41 9RD for Rillatech Ltd / Dalziel Ltd
- CHE/22/00653/FUL Demolition of existing single storey side extension, erection of 2 storey side extension and internal alterations. Reduction to the land level at a section of the frontage and installation of retaining walls with guard rails, to allow for car parking at Delgan 5 Coniston Road, Newbold, Chesterfield S41 8JE for Mr Sekhon Manvesh
- CHE/22/00674/FUL Demolition of existing garage and car port, and erection of a single storey side extension at 46 Orchard View Road, Loundsley Green, Chesterfield S40 4BU for Mr and Mrs Foster
- CHE/22/00704/FUL Proposed first floor bedroom over side garage at 36A Houldsworth Drive, Hady S41 0BS for Mr A Nicholas
- CHE/22/00711/FUL Single storey rear extension with cladding at 19 Mayfield Road, Chesterfield S40 3AJ for Mrs Kaye Wallis
- CHE/22/00744/FUL Demolition of existing conservatory and erection of a single storey rear extension, alterations to front elevation to include new gable with window and new render to walls at 538 Chatsworth Road Chesterfield S40 3AY for Mr and Mrs Foster
- CHE/22/00756/FUL Two storey rear extension (revised drawings received 28.12.2022) at 25 Selhurst Road, Newbold, Chesterfield S41 7HR for Cutler and Green
- CHE/22/00770/FUL Demolition of existing conservatory boot room and replacement with new brick built boot room matching the style of the previous orangery extension at Hady House, 75 Hady Hill, Hady,

Chesterfield S41 0EE for Mr C Fletcher

- CHE/22/00771/LBC Listed building consent for demolition of existing conservatory boot room and replacement with new brick built boot room matching the style of the previous orangery extension at Hady House, 75 Hady Hill, Hady, Chesterfield S41 0EE for Mr C Fletcher
- CHE/22/00777/FUL Installation of external wall insulation and application of its rendering at 39 Handley Road, New Whittington S43 2DU for Mr Alain Augère
- CHE/22/00781/FUL Removal of uneven steps. Installation of new stairs, wall and handrailing and replacement of brick paved drive with concrete at 177 Keswick Drive, Newbold, Chesterfield S41 8HQ for Mr Ian Leverton
- CHE/22/00790/ADV Erection of 1 x 9m totem pole sign, 1 x height restriction bar, 1 x menu board and 5 x freestanding menu and directional signage associated with drive-thru coffee shop/restaurant at Arnold Clark Motorstore, Meltham Lane, Chesterfield S41 7LG for 1 Oak
- CHE/22/00792/FUL First floor extension above existing dining room and study and demolition of existing garage and conservatory and erection of single storey side/rear extension at 8 Lake View Avenue, Walton, Chesterfield S40 3DR for Mrs Hannah Harison-Denby
- CHE/22/00798/FUL Erection of two single storey outbuildings at 35 Oakfield Avenue, Chesterfield S40 3LE for Mr Robert Bradshaw
- CHE/22/00802/PA Conversion of existing office building to a single, 4- bedroom dwelling (Class C3) at Existing Offices Dunston Hole Farm, Unnamed Road accessing Dunston Hall and Hole Farm, Chesterfield

S41 9RL for Mr and Mrs K. Heppenstall

- CHE/22/00805/ADV One free roadside sign to Farndale Road, 3 totem signs at the service yard entrances and 6 building mounted fascia signs (one on each unit) at Land accessed from Farndale Road, Staveley, Chesterfield for Devonshire Property (B2D) Limited
- CHE/22/00809/FUL Alterations to existing office building, including partial demolition (part-retrospective) at Dunston Hole Farm, Unnamed Road Accessing Dunston Hall and Hole Farm, Chesterfield S41 9RL for Mr and Mrs K. Heppenstall
- CHE/22/00818/FUL Single storey front and side extensions at 61 Mansfield Road, Hasland, Chesterfield S41 0JE for Victoria Sweetmore
- CHE/22/00827/FUL Demolition of garage and erection of a single storey front and side extension with internal alterations. Alterations to front entrance canopy at 64 Peak View Road, Brockwell, Chesterfield S40 4NN for Mr and Mrs John Hill
- CHE/22/00839/FUL First floor extension over existing garage at 18 Challands Way, Hasland S41 0ER for Mr & Mrs Day
- CHE/23/00038/TPO Oak situated on fence between garden and vegetable plot/field crown cleaning due to damaged branches falling near property at 33 Coupland Close, Old Whittington S41 9TB for Mrs June Macdonald
- (b) Refusals
- CHE/22/00715/FUL Pitched roof over existing rear extension and replacement of boundary hedge with a wooden panel and concrete plinth fence at 126 Broomfield Avenue, Hasland, Chesterfield S41

OND for  
Mr James Bentley

- CHE/22/00785/REM Variation of condition 4 (opening hours) of application CHE/21/00042/COU - To extend permissible hours for licensing activities to from 10am-2:30am daily at 10 Station Road, Whittington Moor, Chesterfield S41 9AQ for Mason's Bar Ltd
- CHE/22/00826/PA Application for prior approval for a change of use of offices into two flats at Crush, 31 West Bars, Chesterfield S40 1AG for James Steer
- (c) Discharge of Planning Condition
- CHE/22/00297/DOC Discharge of conditions relating to CHE/17/00645/FUL (Office Code No. CHE/21/00835/REM1) in relation to conditions 4 (Pendragon Chesterfield Site Set Up Plan wk1\_2), 9 (Pendragon Chesterfield Site Set Up Plan wk2-7) and 14 (Kingfisher- Employment and training plan at Development Site at Eastside Park, Eastside Road, Chesterfield for Pendragon PLC
- CHE/22/00306/DOC Discharge of Conditions 4 (Construction management), 9 (Space for parking/loading etc) and 14 (Employment and Training Plan) relating to application CHE/21/00598/REM1 at Development Site at Eastside Park, Eastside Road, Chesterfield for Pendragon PLC
- CHE/22/00406/DOC Discharge of condition 4 (Tree Protection) of CHE/22/00142/FUL - A new purpose built link corridor through existing courtyard, Infill of existing undercroft, replacement of 9 windows and one new window at Chesterfield and North Derbyshire Royal Hospital, Chesterfield Road, Calow S44 5BL for The Manser Practice

- CHE/22/00608/DOC Discharge of condition 8 (Surface Water Drainage) of CHE/20/00432/FUL - Construction of a solar photovoltaic farm, with battery storage and other associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping at Land to West of Inkersall Road, Staveley, Chesterfield for Inkersall Solar Farm Limited
- CHE/22/00713/DOC Discharge of condition 4 (Pile Foundation Detail and Design) of application CHE/20/00790/FUL - First floor side extension above existing garage and rear two storey extension at 31 Storrs Road, Chesterfield S40 3QA for Mr and Mrs Pogson
- CHE/22/00736/DOC Discharge of conditions 3 (materials) and 4 (biodiversity) of CHE/22/00344/FUL - replacement of existing porch roof to a hip roof and erection of canopies over the windows to the left and right of the porch at 3 Branton Close, Boythorpe, Chesterfield S40 2NL for Mr Wills Brady
- CHE/22/00753/DOC Discharge of condition 4 (biodiversity measures) of CHE/22/00288/FUL - First floor extension to the side elevation at 17 Southfield Avenue, Hasland, Chesterfield S41 0LX for Mr Ashley Thompson
- CHE/22/00816/DOC Discharge of conditions 8 (Soft landscaping scheme) and 9 (Hard landscaping works) of application CHE/17/00798/FUL - Change of use from Office (B1) to Residential - 30 apartments over 3 floors (C3) and internal alterations to Listed Building at Knightsbridge Court, West Bars, Chesterfield S40 1BA for ARC Capital
- CHE/23/00008/DOC Discharge of condition 4 (Declaration of site safety) of application CHE/20/00760/FUL - Conversion and extension of existing garage to form new dwelling at The Bungalow, 2A Delves Close, Walton S40 2BU for Mr Adam Bowler



CHE/23/00012/DOC Compliance with condition 25 (Submission of method statement for Network Rail approval) of CHE/20/00496/FUL- Demolition of 7 buildings and erection of 12 new units use B2/B8 use with ancillary offices, associated car parking and external vehicular areas/landscaping at Land Off Station Road, Old Whittington, Chesterfield S41 9AW for MSAndrew Butler Castings Ltd

CHE/23/00028/DOC Discharge of condition 3 (biodiversity) of application CHE/22/00601/FUL at McDonalds Restaurants Ltd, Markham Vale Services, Enterprise Way, Duckmanton S44 5HB for InstaVolt LTD

(d) Partial Discharge of Conditions

CHE/22/00396/DOC Discharge of condition 6 (car parking scheme) and 7 (residential electric car charging points), 8 (cycle store) and 9 (bin store) of application CHE/21/00371/FUL - Conversion of existing dwelling into 1 one bed flat and 1 two bed flat at 109 Chesterfield Road, Staveley S43 3QJ for Mr. J McGuinness

CHE/22/00693/DOC Discharge of conditions 3 (Materials), 8 (Disposal of foul and surface water drainage), 10 (Details of surface water drainage works), 11(Landscaping treatment) and 12 (Ecological measures) of application CHE/19/00322/FUL- Demolition of car-port and erection of dwelling at Land Adj 63 Station Road, Brimington, Chesterfield S43 1JU for Ms Andrea Collins

CHE/22/00724/DOC Discharge of conditions 4 (Car Parking Management Plan) and 10 (Construction methodology to minimise effects on bats) of application CHE/21/00602/FUL- Demolition of existing restaurant (Use class E) and erection of a drive thru restaurant (Suis Generis), circulation road and associated works at Burger King, Brimington Road North, Chesterfield S41 9BE

for E G Group

(e) Planning permission required

CHE/23/00023/AGR Application to determine whether prior approval is required for the erection of an agricultural building at St John's Farm, Bridle Road, Woodthorpe, Chesterfield S43 3BY for Mr Mick Hobson

(f) Prior approval not required

CHE/22/00836/TPD Prior approval for a proposed larger home extension at Trevilla, 73 Hady Hill, Hady, Chesterfield S41 0EE for Mrs Lorraine Fletcher

CHE/22/00848/TPD Single storey rear extension at 24 Hazel Drive, Walton S40 3EN for Mr Philip Allen

(g) Unconditional permission

CHE/23/00046/CA Flowering Cherry (T1) - crown thinning 20%, crown reduction: height approx 15m, spread approx 8m. To reinstate reasonable light levels and prevent damage at 95A High Street, Old Whittington S41 9LB for Mr Robert Oles

(h) Other Council no objection with comments

CHE/23/00037/CPO The Proposed Development will facilitate the requirement to meet new obligations for phosphorous removal from wastewater, specifically to achieve compliance with the Water Industry National Environment Programme (WINEP) driver of 0.25mg/l total annual average phosphorous content. Along with associated permitted development the proposed development will comprise the following four kiosks. - Motor Control kiosk - Ferric sulphate dosing kiosk - Ferric sulphate dosing kiosk - Sodium hydroxide dosing kiosk at Whittington Sewage Works, Station Lane, Old Whittington

## S41 9EY for Yorkshire Water Services LTD

## (i) Prior Approval

CHE/22/00806/TEL Telecommunications installation - 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works at Verge Between Hillside Drive and Worksop Road, Mastin Moor, Chesterfield S43 3AE for CK Hutchison Networks (UK) Ltd

## (j) CLOPUD Granted

CHE/22/00807/CLO Certificate of Lawfulness for the proposed use of the building for ancillary booking, admin and IT office functions associated with an app-based private taxi/minicab/private hire service; with no private hire vehicle parking or visiting members of the public at Tapton Park Innovation Centre, Brimington Road, Tapton, Chesterfield S41 0TZ for Bolt Services UK Limited

## 111 **APPLICATIONS TO FELL OR PRUNE TREES (P620D)**

\*The Development Management and Conservation Manager reported that pursuant to the powers delegated to him he had determined the under-mentioned applications in respect of:-

(a) The felling and pruning of trees:-

(b) Notification of Intent to Affect Trees in a Conservation Area

CHE/23/00046/CA Agreement to the pruning of one Cherry tree to The pruning of one Cherry tree in the grounds of 95a High Street, Old Whittington crown reduce to leave a 15 metres high tree with a crown spread of 8 metres to previous reduction points. The pruning of the tree will have no adverse effect on the character and amenity of the area.

The trees are within the Old Whittington Conservation Area and the applicant wishes to prune the tree because it is close to the neighbouring property and lamp stand.

**112 APPEALS REPORT (P000)**

The Development Management and Conservation Manager reported on the current position in respect of appeals which had been received.

**\*RESOLVED -**

That the report be noted.

**113 ENFORCEMENT REPORT (P410)**

The Local Government and Regulatory Law Manager and the Development Management and Conservation Manager submitted a joint report on the current position regarding enforcement action which had been authorised by the Council.

**\*RESOLVED -**

That the report be noted.

**114 LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF PUBLIC**

**\*RESOLVED –**

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 6 of Part I of Schedule 12A of the Act.

**115 94 CHESTER STREET, CHESTERFIELD**

The Development Management and Conservation Manager submitted a report to inform members of a breach of planning legislation at 94 Chester Street, Chesterfield.

**\*RESOLVED –**

That authority be granted for the issue of an enforcement notice, in relation to the unauthorised development and requiring its removal from the property. The notice should specify a compliance period of 28 days.

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# Agenda Item 4

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	13 <sup>th</sup> March 2023
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.

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**INDEX TO DEVELOPMENT MANAGEMENT AND CONSERVATION  
MANAGER'S REPORT ON THE 13<sup>th</sup> March 2023**

<b>ITEM 1</b>	CHE/22/00607/FUL - DEMOLITION OF 20 AND 22 SOMERSALL LANE AND ERECTION OF THREE REPLACEMENT DWELLINGS WITH ASSOCIATED PARKING AND TURNING AREAS (EXISTING ACCESSES RETAINED) ON LAND AT 20 SOMERSALL LANE, CHESTERFIELD FOR RUTLAND UK PROPERTY LTD.
<b>ITEM 2</b>	CHE/22/00592/OUT - RESIDENTIAL DEVELOPMENT OF TWO DWELLINGS - RE-SUBMISSION OF CHE/21/00143/OUT AT REAR OF 66 SOUTH STREET NORTH, NEW WHITTINGTON, CHESTERFIELD, S43 2AB FOR RAWSON RESIDENTIAL RENOVATIONS LTD.
<b>ITEM 3</b>	CHE/22/00784/FUL - TEMPORARY SITING OF A MARQUEE WITH ASSOCIATED TEMPORARY PATH, ACCESS AND CAR PARKING, FOR USE IN CONNECTION WITH THE EXISTING BUSINESS AT DUNSTON HALL (FOR A PERIOD OF THREE YEARS), DUNSTON HALL, DUNSTON ROAD, CHESTERFIELD FOR DUNSTON HALL LEISURE LTD.
<b>ITEM 4</b>	CHE/22/00680/FUL - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A SELF STORAGE FACILITY (UNIT 1) INCLUDING OFFICE USE (CLASS E(G)(I)) OF 186 SQM AND TWO EMPLOYMENT UNITS COMPRISING UNIT 2 CLASS E (G)(II)/E (G)(III) & B8 AND UNIT 3 CLASS E(G) & B8 AND ASSOCIATED PARKING, SERVICING AREAS AND LANDSCAPING (REVISED DRAWINGS RECEIVED 26TH AND 27TH JANUARY 2023) AT FORMER SIMPLY GYM, SHEFFIELD ROAD, WHITTINGTON MOOR, CHESTERFIELD FOR MCCARTHY'S STORAGE WORLD (CHESTERFIELD) LTD.

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**ITEM 1****Demolition of 20 and 22 Somersall Lane and erection of three replacement dwellings with associated parking and turning areas (existing accesses retained) on land at 20 Somersall Lane for Rutland UK property Ltd.**

Local Plan: Unallocated

Ward: West

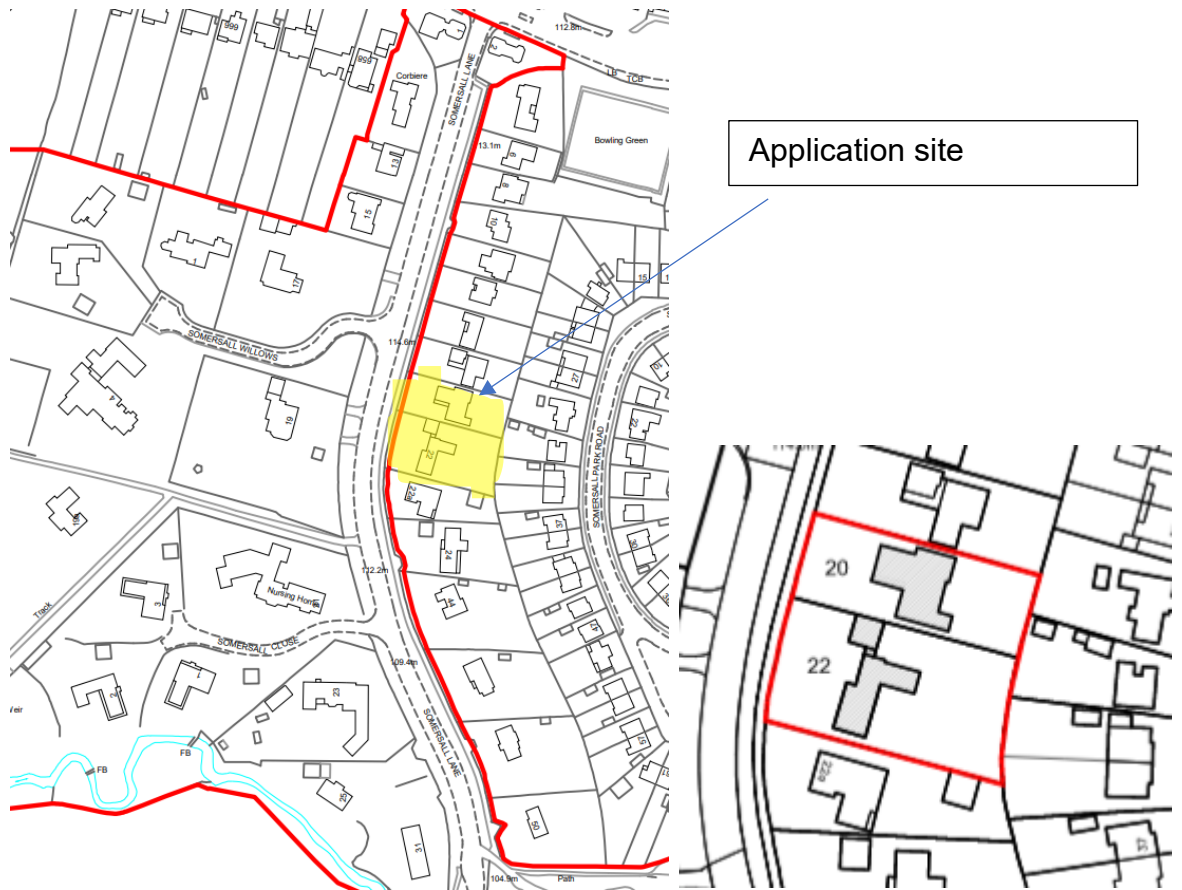
Plot No:

Committee Date: 13<sup>th</sup> March 2023**CONSULTATIONS:**

CBC Tree Officer	Comments made see below
CBC Design Services	Comments made see below
Yorkshire Water	Recommended conditions – see below
Highway Authority	Comments made see below
Derbyshire Wildlife Trust	Comments made see below
CBC Conservation Officer	Initially raised concern. On the revised scheme comments made, see report below.
Archaeology	Comments made see below
Ward members	No representations received
Representations	12 comments received from 6 local residents – see report

**2.0 THE SITE**

2.1 The application site is the dwelling and gardens of two existing bungalows located at no's 20 and 22 Somersall Lane. The existing bungalows are of differing designs with no. 20 being an 'L' shaped floor plan with projecting gable and feature chimney to the frontage and no. 22 being a simple bungalow with low ridge height and roof pitch filling the width of the plot. The site is within a built up residential area of Somersall. There are protected trees to the site frontage which is partially within the Somersall Lane Conservation Area as shown by the red edged boundary below. The trees along the street are protected by Tree Preservation Order:



2.2 Details of the character of the Conservation Area are considered under section 5.6 of the report below.

2.3 Images of the site: No. 20:







2.4 Images of No. 22:







No. 20:



No. 22:





2.5

Google map images:



3.0

### **SITE HISTORY**

3.1

CHE/21/00750/FUL Alterations, rear and side extension and loft conversion with rear and side dormer to existing bungalow (revised drawing received 08.12.2021) – Conditional permission 18.01.2022.

## 4.0 THE PROPOSAL

- 4.1 Through the application process the proposals have been amended to address the concerns raised by the Conservation Officer and representations received. These matters are considered under section 5.6 below.
- 4.2 The proposal is to erect three, two storey dwellings in place of the two existing bungalows. Each dwelling proposed is to have 4 bedrooms set within the roof space with integral garage. Plot 1 is to use the existing access to no. 20 and plots 2 and 3 would share the access to no. 22. Each of the units are set back from the front of the site. No works to the protected trees along the site frontage are needed.



- 4.3 The set back from the road frontage aligns with development along the street and allows for an area of landscaping as well as parking and turning space.  
The width of plot 1 is approximately 13.2m  
The width of Plot 2 is approximately 14.3m.  
The width of plot 3 is approximately 12.7m
- 4.3 The existing and proposed street scene have been submitted to support the proposals and which provides detail of the design of the units in their context:





## 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.

5.1.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that; In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### 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

CLP15 Green Infrastructure

CLP16 Biodiversity, Geodiversity and the Ecological Network

CLP20 Design

CLP21 Historic Environment

## CLP22 Influencing the Demand for Travel

### 5.3 **Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)
- Residential SPD Successful Places
- Somersall Conservation Area Character Appraisal

### 5.4 **Key Issues**

- Principle of development
- Design and appearance and impact on Heritage Assets
- Impact on residential amenity;
- Highway safety
- Biodiversity and trees
- 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 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.

5.5.2 The application site is within an established residential area with good access to local services and facilities along Chatsworth Road as well as public transport routes in and out of town, making the site acceptable in principle for development in line with policies CLP1 and CLP2. Subject to more detailed consideration the principle of the development is in line with Adopted Local Plan policy.

### 5.6 **Design, Appearance and Impact on Heritage Assets**

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 Policy CLP21 requires that in assessing the impact of a proposed development on the significance of a designated heritage asset, the

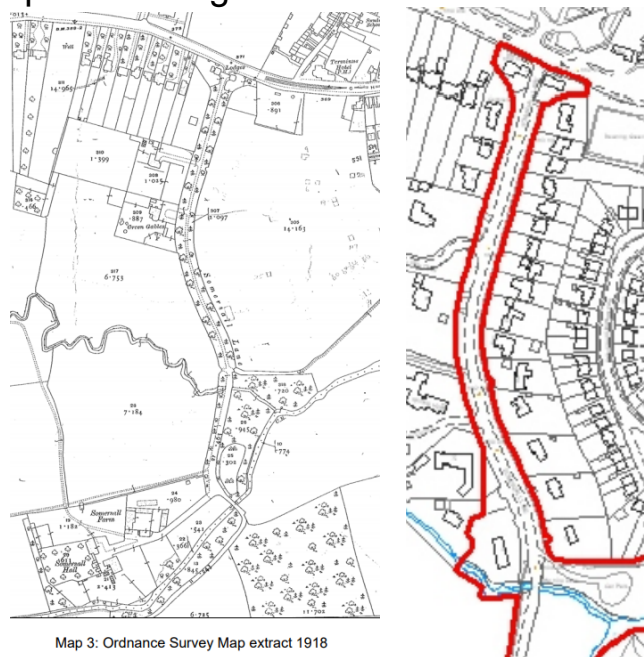
council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible. In this case the designated asset is the conservation area located to the site frontage, incorporating the frontage boundary walls only. The policy goes on to note that: c) the council will: use Conservation Area Appraisals and associated Management Plans to ensure the conservation or enhancement of the individual character of each of the borough's Conservation Areas.

- 5.6.2 The NPPF in para 199 requires that: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.6.3 The NPPF in para 202 advises: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 5.6.4 The Conservation Area Appraisal provides context for the application site and the significance of the Conservation Area. The Lane was originally a rural tree lined access route to Somersall Hall framed by entrance lodges, and whilst the surrounding area is now developed, this historic purpose and character is still intact and can still be appreciated. The Appraisal notes: "Although the sides of the lane have been developed, the character of Somersall Lane as the historic avenue approach to Somersall Hall is still discernible."
- 5.6.5 The Conservation Area was originally of an elongated form following the line of the Lane however it has since been expanded to include development to the west. The appraisal notes: "Somersall Lane West Area (extension) - This additional area complements and enhances the character of the original area and because of this it was of worthy receiving conservation status. The area has a more noticeable spacious and verdant appearance, arising from the large plots and the presence of substantial trees and other vegetation. It benefits from a particularly leafy character formed by the mature trees and well-defined large gardens. The massed foliage enhances the quiet atmosphere and sense of privacy within the area, characteristics which are the result of low-density development and the seclusion of the area from the highways which adds to its peaceful character. The high ratio of green

space to built form enhanced by the large gardens is important as a landscape resource to the area as well as forming a strong landscape feature defining the area. The spacious geometry of the street and dominance of trees, planting and boundary walls within the streetscape makes this area a significant unifying feature to the North Character Area.”

5.6.6 In general terms the appraisal notes: “Boundary treatment contributes significantly to the character and appearance of the Somersall Conservation Area. These are cohesive features in views within the area. The boundary treatment includes stone and brick boundary walls, piers and railings. There are some remaining historic boundary treatments in the area including dry stone walls and hedgerows. Where they remain, traditional boundary walls, gates, gate piers and railings and hedgerows must be preserved, sympathetically restored or reinstated when the opportunity arises.”

5.6.7 The mapping within the appraisal demonstrates the start of the development along the lane between 1898 to 1918:



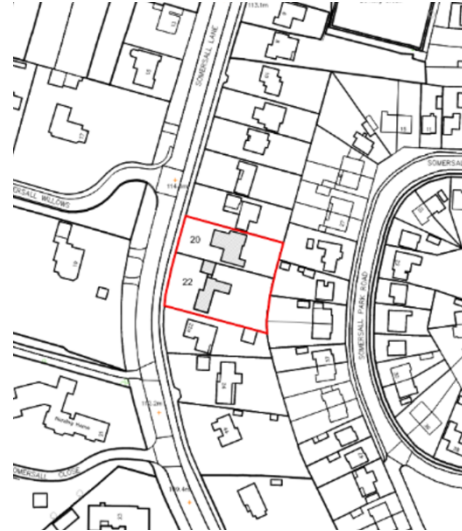
5.6.8 In 1972 the Conservation Area was formed, being later extended to the west as shown above and as referred to earlier.

5.6.9 From this understanding of the significance of the Conservation Area it is clear that the trees along the lane and the dry stone wall frontages are integral to the character of the Conservation Area. The area of the application site that is within the Conservation Area will largely remain unaltered as a result of this development. There are no works proposed

that will impact on the street trees. The access to No. 20 will be slightly widened, however it is important to note that such works could have been undertaken, with the benefit of planning permission, to serve the existing dwelling. The area of soft landscaping to the frontages is intended to remain albeit reduced in size. Where this is to take place is outside of the Conservation Area and could have been undertaken as permitted development for the existing dwellings. Therefore, in terms of the frontage of the site and the impact this has on the significance of the Conservation Area the scheme is considered to be acceptable.

Increase density / Plot width:

- 5.6.10 Concern has been raised that the increase in density will adversely impact on the character and appearance of the conservation area. It is important to note at this point that the main area of the application site is not within the Conservation Area but adjacent to it, and therefore impacts relate to the setting of the Conservation Area. As noted above the tree lined street, front gardens and stone boundary walls are key elements of the character which will remain largely unchanged. The issue is therefore to consider whether two storey housing and an increase in density from 2 to 3 dwellings adversely impacts on the setting of the conservation area.
- 5.6.11 The approximate plot widths of the proposed development are:  
Plot 1, 13.2m  
Plot 2, 14.3m  
Plot 3, 12.7m  
The width of the plot for no. 22a is approximately 13.3m  
The width of the plot for no. 18 is approximately 14.3m  
The width of plot 16 is approximately 14.4m  
The width of plot 14 approximately 14.2m  
The width of the plot at no. 12 approximately 12.5m  
These are based on measurements from the proposed location plan.



Therefore, the widths of the proposed plots are not dissimilar to the existing, with the width of the plot at no. 22 being the anomaly within the row, with 22a being again a narrower plot.

5.6.12 As can be seen on the image above, south from no. 24 Somersall Lane the widths of the plots become much greater than those to the north of no. 24. The dimensions being 23.4m at no. 24 and 26.4m at no 44 (number change but the following dwelling in the street). Therefore, the proposed reduced plot width as a result of this application is within similar dimensions to the remainder of plots to the north of no. 24. On this basis the increase in density in terms of plot width is not considered to be so out of character with the surroundings that this would result in harm to the setting of the Conservation Area.

Two Storey:

5.6.13 The existing bungalows have minimal impact on the street scene due to the set back from the highway, no. 22 in particular has a very low pitch roof and ridge height. Due to the landscaping of the garden and treed street this dwelling sits very quietly within its plot. Whilst being lower buildings each of the dwellings does effectively fill the width of the plot.

5.6.14 The eastern side of Somersall Lane is typified by dwellings that are of differing age, design, style and scale. This is very different to the western side of the Lane where there are much more substantial dwellings, often of an arts and crafts design, sat within larger grounds. To the eastern side of the Lane there are two storey dwellings and bungalows along the street, the majority of dwellings along the street are two storey properties. It is therefore considered that in principle, two storey development in this location exists and is appropriate.

5.6.15 Concern has also been raised that the gaps between the proposed dwellings are too small resulting in adverse impact upon character. Through the application process the design and siting of the dwellings has been amended to have a better relationship between the proposed dwellings and to reduce the visual bulk of the dwellings from the frontage. This has resulted in rooms within the roof space or within gables to minimise the visual impact and visual scale. This has resulted in a scheme that sits comfortably within the street scene as demonstrated on this street scene plan:



5.6.16 It is considered that the revised design, achieves an appropriate balance to the elevations, reducing the original bulk of the buildings and improving the quality of the architecture. The design of each unit is slightly different in line with the character of the street. The space between the buildings reflects the spaces which currently exist between buildings adjacent to the site. This scheme is therefore considered to be appropriate within the street scene and is acceptable in terms of the spacings between the buildings. Having considered the detail of the proposed development, it is not considered that this proposal will result in undue harm to the setting of the Conservation Area. As there will be a change from the existing development there will be a small degree of harm which is considered to be at the lowest end of the scale of less than substantial harm and which is outweighed by the benefits arising from provision of additional updated housing in line with para 202 of the NPPF.

5.6.17 This conclusion is in line with the final comments of the Council’s Conservation Officer: “Overall the revisions are an improvement, when viewing the revised ‘indicative proposed street scene’ drawing, the design of the frontages of plot 2 and plot 3 have reduced the dominance and projection of the houses into the adjacent conservation area and street scene by removing the two-storey entrance block (plot 2) and reducing the large pitched gable (plot 3). There is little more open separation between the proposed houses which slightly lessens the

intensification of development, at least visually. On that basis I would say that the harm to the conservation area would be very much less than significant in NPPF terms, and likely acceptable when balanced against the need for this type of property in a diverse commercial housing market.”

5.6.18 In terms of Archaeology the County Archaeologist has considered the case and commented that:

“In terms of below ground archaeology, a polished Langdale stone axe dating from late Neolithic to the early Bronze Age (MDR5355) was reported as having been found on the agricultural land of Hall Farm (an early C17<sup>th</sup> Hall House, Grade II) some years before in 1924. At the time this land also encompassed the proposed development area. However, from Ordnance survey maps it is clear that development of the land, after the war but before 1955, created the site in its current form. This development will in all probability have removed any underlying archaeology and I have no objection on archaeological grounds.”

On this basis there are no archaeological issues relating to the development.

5.6.19 It is therefore considered that the revised scheme, which is of a much-improved design, is appropriate to the site context and acceptable in terms of policy CLP21 and Para 202 of the NPPF in relation to heritage assets and appropriate in terms design in line with Policy CLP20 of the Adopted Local plan. A condition regarding material finishes will be required to ensure the finished scheme is appropriate to the sensitive context.

5.6.20 Policy CLP20 refers to new development being able to withstand the long term impacts of climate change. No details have been submitted to demonstrate any use of renewable technologies or other climate measures for the dwellings or through construction. Whilst it is assumed the development will be subject to the updated building regulations which will require this, it is nevertheless reasonable to impose a condition requiring a statement setting out how the development will address matters of climate change.

## **5.7 Impact on Residential Amenity**

5.7.1 Concern has been raised that the development will result in adverse amenity impacts in terms of loss of privacy and overlooking, particularly to the rear of the site.



- 5.7.2 Policy CLP14 requires 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.
- 5.7.3 From the proposed location plan the separation distances from the rear of the proposed dwellings to the rear of the dwellings on Somersall Park Road is approximately 30m. This is substantially in excess of the minimum separation distance of 21m recommended within the Residential SPD and is therefore considered to be acceptable. It is recognised that there is a level change between Somersall Lane and Somersall Park Road and from the north to the south of Somersall Lane itself. However, these level changes along with the separation distances are considered to be within acceptable limits beyond the requirements of the SPD.
- 5.7.4 It is recognised that the dwellings will change from single storey to two storey dwellings and that this will be a change to the existing residents. However, this does not make the development unacceptable in amenity terms as set out above.
- 5.7.5 The proposed block plan shows the 45 degree line from the adjacent windows of the neighbouring properties either side of the development. This shows that the development is within acceptable limits, with the set back from the frontage of the site assisting with minimising the impacts to either side neighbour. It is also noted that plots 1 and 3 have been designed to minimise their height nearest to the neighbouring properties including a flat roof element to the rear elevation. The proposed Juliette balcony to the rear elevation is not considered to result in any greater impact on amenity over that of a large window opening and as such this is also considered to be acceptable.
- 5.7.6 To the side elevation of the proposed dwellings there are windows which could result in some amenity impacts to future occupiers so it is important to consider the details of these windows;  
To plot 1 the upper floor windows are to bathrooms and the hallway which will be obscure glazed. The ground floor windows due to boundary treatments will not result in overlooking.  
To plot 2 the upper floor windows are to bathrooms which will be obscure glazed. The ground floor windows due to boundary treatments will not result in overlooking.

To plot 3 bathroom windows and a hall window are to the upper floor which will be obscure glazed to prevent any adverse impacts. The ground floor windows are considered to be acceptable.

A condition can ensure the windows are obscure glazed and that they will remain so in perpetuity.

- 5.7.7 Having assessed the details of the scheme it is considered that the development is acceptable in terms of amenity impacts on neighbouring residents and future residents in accordance with Policy CLP14.

## **5.8 Highway Safety**

- 5.8.1 Policy CLP22 requires 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.

- 5.8.2 The Highway Authority has commented on the proposal:  
“The proposal seeks the demolition of 2 existing bungalows and the construction of 3 four-bedroom dwellings with associated off-street parking including integral garages.  
The existing vehicular accesses currently serving the existing bungalows will be retained to serve the proposed development. Plot 1 will not result in the intensification in use of the Northern access as the bungalow will be replaced with a single dwelling.  
Whilst the Southern access will see an increase in vehicle movements as the access will serve 2 dwellings, due to the width of the fronting footway/verge it is considered that the access benefits from acceptable levels of emerging visibility in either direction and the increase in traffic generated by the proposal is unlikely to lead to any safety issues associated with the existing access.  
Typically, vehicular accesses serving multiple dwellings should have a minimum width of 4.25m (with an additional 0.5m provided to any side adjacent to a physical barrier) to allow the passing of vehicles, however, the widening of the existing dropped vehicle crossing would likely negatively impact the adjacent tree's and in this instance it is not considered that a vehicle waiting on Somersall Lane for a vehicle to exit the site would be detrimental to highway safety.  
The submitted plans demonstrate sufficient levels of off-street parking by way of garage and driveway(s) to serve each dwelling. Conditions recommended.”

5.8.3 Given that the existing access points are acceptable in terms of visibility and that appropriate parking levels are provided, there are no highway concerns arising from the proposal which is considered to meet the requirements of Policy CLP20 and 22 in terms of highway matters. The recommended conditions where they meet the tests for planning conditions are included within the list of conditions below.

## **5.9 Biodiversity and Trees**

5.9.1 Policy CLP16 requires that; The council will expect development proposals to:

- 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 Prior to the Environment Act coming into force, which is anticipated in November this year, the Local Planning Authority is only seeking a measurable net gain on major development sites but is seeking enhancements wherever possible. In line with the policy it is also important to consider the ecological impacts of the development.

5.9.3 Derbyshire Wildlife Trust (DWT) has commented that:  
“The bat surveys undertaken have confirmed the presence of a maternity roost of common pipistrelle bat in 20 Somersall Lane. The proposed development will result in the destruction of the roost and therefore the development will need to secure a European Protected Species licence from Natural England. The bat survey includes mitigation proposals, and these are considered to be in line with current guidelines.

In reaching a decision, it is important that the local planning authority demonstrates how they have fully considered the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

(i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial

consequences of primary importance for the environment (Regulation 53(2)(e))

(ii) That there is no satisfactory alternative (Regulation 53(9)(a)); and  
(iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9)(b))”

#### 5.9.4

It should be noted that whether or not permission is granted, the licensing body is Natural England and not the Local Planning Authority, therefore whether or not permission is granted there needs to be further consideration under the licence procedure. Nevertheless, the response to these tests is set out below:

- i) There is some confusion over the regulations, which appear to have been amended in 2017 and 2019 and now appears to be within section 55, which specifically refers to the licencing body, which is not the LPA. However, considering available guidance it would appear that the granting of permission is usually sufficient when considering the licence for this test to be met. In this case the applicant /owner would consider the economic need for the development to take precedence, thereby meeting the test.
- ii) In terms of alternatives, there is no reasonable alternative site to be considered given the minor nature of the application and the land ownership. It is noted in guidance that the approach should be to avoid, mitigate and compensate. It is not considered reasonable given the landownership that avoidance is appropriate, it is clear from the planning history that minor works to the dwelling may equally result in the need for mitigation. The mitigation would be provided by the licence and bat roosting opportunities would be provided within the new dwellings.
- iii) In relation to test (iii) DWT has advised that the proposed mitigation measures are suitable to maintain the favourable conservation status of the local bat population.

On this basis it is not considered that the presence of the protected species and need for a licence in relation to bat species should in this respect warrant a refusal of the planning application.

#### 5.9.5

DWT further commented that:

“The mitigation plan will need to be finalised and agreed with Natural England as part of the application for a licence. A condition relating to this is recommended. The Preliminary Ecological Assessment (PEA) and bat survey have also highlighted that a birch tree within the site has features that could make it suitable for roosting bats. If this tree is felled

or pruned the mitigation measures set out in the PEA should be strictly followed.

The PEA also assessed the impact on habitats at the site and has confirmed the loss of part of the existing gardens which include introduced shrubs and amenity grassland. There are no impacts on any designated sites (statutory or non-statutory) and no impacts on any Habitats of Principal Importance. Other than bats (discussed above) impacts on species are probably limited to breeding birds and possibly hedgehog.

We support the measures proposed by the Tree officer to the Council regarding landscaping and the need to protect trees on the edge of the property on this basis conditions are recommended.”

- 5.9.6 Whilst the Tree Survey plan shows the Birch tree to be retained, it is important to condition the need for a bat survey should this tree need to be removed for any reason.
- 5.9.7 The PEA makes it clear that further survey work is required. This has been undertaken and the need for a licence and mitigation works required. A condition to enhance biodiversity is recommended along with the need to demonstrate that a NE licence has been obtained.
- 5.9.8 To ensure that hedgehogs are not harmed precautionary measures should be undertaken. In addition the fencing proposed will need to include hedgehog holes, again this can be conditioned.
- 5.9.9 Subject to conditions the impacts on ecology and the need to consider appropriate biodiversity measures have been met.

Trees:

- 5.9.10 There are protected trees to the site frontage which will remain unharmed by the development. The category A and B trees on site are all shown to be retained as they are outside the area of the proposed dwellings.
- 5.9.11 The Council’s Tree Officer has commented on the impacts on trees: “Tree Survey - A tree survey and constraints plan by Weddle Landscape Design dated June 2022 has been submitted with the application. The survey has identified two category class B trees to the rear of 20 Somersall Lane located in the neighbouring property at Somersall Park Road reference T7 Sycamore and T8 Copper Beech. To the frontage of 20 & 22 Somersall Lane which is within the

Somersall Conservation Area is one Category A tree, T14 Sycamore located to the frontage of 22 Somersall Lane and two category B Horsechestnut trees reference T10 & T12. There are also two Hornbeam and one Lime tree to the frontage which are part of the tree lined Lane which are a main feature of the Somersall Conservation Area. Further trees and shrubs are located within the gardens of the two properties, but these are low quality trees, conifers and shrub species that have been shaped or overgrown and have little significance although do provide some public amenity due to their location adjacent to Somersall Lane and the conservation area.

Site Layout - The site layout shows 3 new dwellings using the existing access points for 20 and 22 Somersall Lane. All category A & B trees are to be retained but this is due to them being located off the development site. It is also shown that category C trees T2 Birch and what appears to be T3 Cupressus Spp and T4 Goat Willow are to be retained although this should be confirmed within a Tree Retention Plan as part of the landscaping proposals.

The main concern regarding the application is the possible impacts on the trees along Somersall Lane and neighbouring properties. Suitable tree protection measures should therefore be submitted for approval to avoid any accidental damage or compaction of the rooting environment. Conditions recommended.”

5.9.12 Subject to conditions as recommended it is considered the proposal will not adversely impact on valuable tree species within and adjacent to the site. On this basis the proposal meets the requirements of Policy CLP16.

## **5.10 Ground conditions**

5.10.1 Policy CLP14 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.

5.10.2 The application site is outside of the high risk area for former coal mining activity where the Coal Authority recommend referring to their Standing Advice. This is to be added as a footnote within the recommendation. There are no other known ground conditions which require mitigation.

## **5.11 Drainage**

- 5.11.1 Concern has been raised that the drainage of the site as noted on plan is not in line with what is available on site and that new development will result in over capacity of the drainage system.
- 5.11.2 Policy CLP13 requires 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 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.
- 5.11.3 It is noted that this is a minor development where the Building Regulations process will ensure that the drainage of the site is appropriate along with the need to secure permission from Statutory Undertakers to connect into existing drainage. There is no need in such cases for surface water run off provision beyond the existing garden land.
- 5.11.4 Yorkshire Water has commented that: "Conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure." They have also noted that: "It is noted from the submitted drawing that surface water will be draining via soakaways within the rear gardens; however, the drainage to the front of the properties are discharging to the public sewer network via the assumed existing "combined" drainage. If the site can drain via soakaways then this should be the case for the entire site, in the interest of sustainable drainage practice. In addition, the submitted topographical survey doesn't indicate any "combined" drainage discharging to the public sewer network. If infiltration (soakaways) cannot be achieved for the entire site, there are separate sewerage networks available. Following the discount of a connection to any potential watercourse, the surface water outfall would be to the 225 mm diameter public surface water sewer within Somersall Lane, at a maximum rate of 3.5 per second."
- 5.11.5 The Council's Design Services Drainage officer has noted similar comments: "All surface water from the proposed new dwellings should be disposed of via soakaways, and not just that to the rear of the site. Evidence of their suitability must be provided by carrying out percolation tests, together with resulting sizing calculations in accordance with BRE Digest and designed not to flood during a 1 in 30 year rain fall event or

allow flooding to properties during a 1 in 100 year rainfall event, including allowance for climate change.”

5.11.6 Subject to the recommended conditions and a further condition to secure water efficiency it is considered that the proposal is acceptable in terms of drainage impacts. If there are deficiencies within the drainage system then this may need to be altered to allow appropriate connections. The proposal meets the requirements of Policy CLP13.

## 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 high CIL charging Zone (£80) 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 based on the proposed plans and existing block plan as follows:

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

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

As set out below:

			<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Development Type</b>	<b>Proposed Floorspace (GIA in Sq.m)</b>	<b>Less Existing (Demolition or change of use) (GIA in Sq.m)</b>	<b>Net Area (GIA in Sq.m)</b>	<b>CIL Rate</b>	<b>Index (permi-ssion)</b>	<b>Index (char-ging sche-dule)</b>	<b>CIL Charge</b>
Residential (C3)	Plot 1 260 Plot 2 268 Plot 3 230 = 758	No. 20 148 No. 22 168 = 316	442	£80	355	288	<b>£43,586</b>

## 6.0 REPRESENTATIONS

6.1 Altogether 12 comments (not including duplicate letters) received from 6 parties residing on Somersall Lane and Somersall Park Road.

Comments on original scheme:



- 6.2 In a time when we know that we must not throw away perfectly good products as this increases carbon emissions and land fill I find it appalling that two relatively new perfectly good properties are to be demolished. This is a waste of world resources. The properties could be renovated without being demolished. This proposal is for profit with no thought to the environment. The three houses will be luxury homes far too expensive for a working family earning average wages. The boundary consists of trees and hedges that provides habitat for a variety of insects, birds, hedgehogs and other small mammals. Destruction of the boundary will result in loss of habitat.
- 6.3 The hedge boundary line should not be removed. The additional larger homes will put pressure on sewerage and water systems.
- 6.4 The drain to no. 20 is shared with no's 18, 16 and 14. The drain from no. 16 now serves the Willows and the additional bungalow and therefore would be under more pressure. The drains have blocked before. The closeness of the houses is out of character as other houses are well spaced.
- 6.5 This is a desirable place to live with unique visual qualities and character. The scale, density and design of the development is harmful to the character and appearance of Somersall Lane.
1. The character of Somersall Lane is principally defined by its avenue of mature trees and the spacious layout of residential properties along it. To the west the arrangement of buildings is more informal with large properties in substantial grounds within a wooded setting. To the east the residential layout has a more formal character with consistent plot widths and generous setback to the houses. There is a mix of house types with gaps at first floor providing a sense of space. The proposal would be contrary to this character:
- The plot widths would be significantly narrower than the typical plot widths along this side of the Lane.
- The gaps between the new homes would also be squeezed down to around 2m with the houses filling the gaps rather than having single storey or spaces between.
- The dwellings would project forward of the building line.
2. This will set an undesirable precedent for the redevelopment of other large plots and properties in the street further eroding the character and appearance.
- The design and layout of development over the years has maintained the character by carefully controlling infill development.

This is likely to lead to proposals for further infilling of larger plots on the lower part of Somersall Lane.

3. The site is on the boundary of Somersall Lane Conservation Area and forms part of its setting as a heritage asset. National policy gives great weight to the conservation of heritage assets and expects that any harm requires a clear and convincing justification, there is none in this case.

The Conservation Area Character Appraisal noted: to the east side of the lane the grass verge separates the road from a footway abutting a low dry stone wall forming the frontages of the properties, which consist of large houses set back from the street.

The site is therefore part of the setting of the Conservation Area.

The set back of the houses and their separation contributes to the character of the Conservation Area.

The houses on the eastern side of the road respect the space around the avenue of mature trees and remain secondary to it helping to preserve its heritage significance.

6.6 We are concerned at the loss of privacy that may result from the development. The replacement of bungalows with houses will impact on our privacy overlooking our home. There is a height difference between the Lane and Park Avenue to the rear resulting in a disproportionate impact. The dwellings would be close to our boundary where we sit out in the garden. The SPD advises that proposals affecting sloping sites should ensure overlooking problems are not aggravated. Existing screening should be retained and further screening added. We endorse the comments of the Tree Officer who noted that the trees should be retained. Trees T2, 3 and 4 are to be kept and T5 and 6 should also be retained.

6.7 The dwellings will closely adjoin one another which will change the character and appearance of the area. The denser form of development would lose vegetation in the frontage which could not be replaced due to the need to provide access and turning to each dwelling. If this followed along the street the character would be further eroded. The drainage arrangements seem incorrect. The roof heights should be as shown on the street elevation with a condition relating to floor levels.

Comments on the revised scheme:

6.8 Object to the demolition, it is difficult to understand the proposal when people want to live in bungalows.

- 6.9 the minor changes to the scheme have done nothing to mitigate the concerns previously outlined. The plot sizes will be smaller than others on Somersall Lane and out of character adversely impacting the Conservation Area. Parking and bin storage to the frontage leaves little space for landscaping which is needed to integrate the development into the street. This will set a dangerous precedent.
- 6.10 the main change appears to be that the dwellings have been set back to the building line. However, the plots widths remain narrower than is typical on the street. The gaps between houses although slightly increased on the amended plans nevertheless do not reflect the generous space between dwellings on the Lane. In an attempt to increase the gaps between the dwellings, the frontage of the houses on plots 1 and 3 are now narrower, resulting in dwelling which appear noticeable less substantial than the surrounding dwellings. The revised plans draw attention to the mass of hard surfacing which would be necessary at the front of the dwellings. The revised plans therefore show a cramped and inappropriately scaled form of development which fail to respect the spacious landscaped character of the area. Dwellings in the area such as no's 11, 15 and 22a have respected plot widths and space around the dwellings. The revised scheme would encourage proposals for the redevelopment of other larger plots. Reducing the plot widths here would allow this to happen further towards Somersall lark. Which would erode the spacious character and appearance of the Lane where it leads to open countryside. The amended scheme would harm the character and appearance of the area without justification.
- 6.11 Consider the environmental and landfill impact this development creates when the houses could be refurbished to 2 eco homes. The timescales for responses are unrealistic and unfair. Only allowing 3 minutes for each speaker is not fair.
- 6.12 The revised plans appear to increase the height of the development increasing overlooking as we are on lower ground. The height line is taken from the neighbouring building which is also on higher ground. The impact is a significant deviation form the current street scene, out of keeping. Retention of all boundary trees should be conditioned to retained habitat and reduce impact on the environment. This is focused on value for the developer rather than designing what will fit in.

6.13 The revised plans do not change my mind. Three buildings where there are two is not in keeping with the area. There is no reference to the position of drains on the new plan and their use. The boundary between no. 20 and 19 has been shown with a fence, I do not believe that is a boundary they own and it should not be changed.

6.14 **Officer response:**  
***The comments raised are responded to within the report above. In regard to land ownership and boundary control these matters are a civil legal matter between the landowners and cannot be resolved through this planning application. Any granting of planning permission does not override property ownership rights.***

## **7.0 HUMAN RIGHTS ACT 1998**

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

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

7.2 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 Having considered in detail the impact on the conservation area it is considered that whilst there may be very low level less than substantia harm to the setting of the conservation area this is easily outweighed by the benefit of additional housing.

9.2 Amenity impacts arising from the proposal are considered to be well within acceptable limits with separation distances being beyond the minimum requirements set out in guidance.

9.3 Subject to conditions to ensure appropriate details in terms of tree protection, highway matters, materials, landscaping, drainage and ecological mitigation, and enhancement the proposal is considered to meet the policy requirements of the Adopted Local Plan and National Policy and is therefore recommended for approval.

## 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 conditional requirement below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below):

Location plan 2021-196-01  
Proposed location plan 2021-169-13 Rev P01  
Proposed block plan 2021-169-03 Rev P03  
Proposed plot 1 floor plan 2021-170-05 Rev P03  
Proposed plot 1 elevation plan 2021-170-06 Rev P03  
Proposed plot 2 floor plan 2021-170-07 Rev P03  
Proposed plot 2 elevation plan 2021-170-08 Rev P03  
Proposed plot 3 floor plan 2021-170-09 Rev P03  
Proposed plot 3 elevation plan 2021-170-10 Rev P03  
Existing and proposed street scene 2021-170-04 Rev P03  
Tree survey and tree constraints plan

Reason: In order to clarify the extent of the planning permission.

3. No demolition or substantive works to 20 Somersall Lane shall be carried until a European Protected Species licence has been obtained from Natural England, plus all additional survey work considered necessary to inform the licence application has been undertaken. 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 section 4.18 of the Bat Survey (August 2022) prepared by Armstrong Ecology and amended as necessary based on the results of the additional surveys. 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. A copy of the results of any monitoring works will be submitted to the LPA.

Reason: In order to ensure no harm to any bat roost in accordance with policy CLP16 of the Adopted Local Plan.

4. Prior to building works commencing above foundation level, a biodiversity enhancement plan shall be submitted to and approved in writing by the LPA to aim to achieve a net biodiversity gain, in accordance with the NPPF 2021. The plan should be in accordance with the measures outlined in the Preliminary Ecological Appraisal (May 2022) and Bat Survey (August 2022) prepared by Armstrong

Ecology. Integrated boxes should be favoured to provide long-lasting, discreet and secure nesting and roosting opportunities. Boxes shall be attached at eaves level, with bird boxes avoiding south facing elevations. Photographs of the boxes in situ shall be submitted to fully discharge the condition.

Reason: In the interests of biodiversity in accordance with policy CLP16 of the Adopted Local Plan.

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

Reason: Reason: In the interests of ecology in accordance with policy CLP16 of the Adopted Local Plan.

6. At the commencement of operations on site (excluding demolition/site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

7. The premises, the subjects of the application, shall not be occupied until space has been provided within the application site generally in accordance with the application drawings for the parking of resident's vehicles (each space measuring a minimum of 2.4m x 5.5m), laid out, surfaced 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 policy CLP22 of the Adopted Local Plan.

8. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees on and off the site, 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) A specification for protective fencing or ground protection to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.

b) Tree protection during demolition and construction indicated on a TPP and construction activities clearly identified as prohibited in this area.

c) Detailed protection measures for the trees to the frontage of the site within the highway verge and Somersall Conservation Area.

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 and in accordance with policy CLP16 of the Adopted Local Plan.

9. Notwithstanding the submitted information and prior to first occupation of the development 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. Details shall include:

a) a scaled plan showing vegetation to be retained and trees and plants to be planted:

b) proposed hardstanding and boundary treatments, to include hedgehog holes

c) a schedule detailing sizes and numbers of all proposed trees/plants

d) Sufficient specification to ensure successful establishment and survival of new planting.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees on and off the site unless agreed in writing by the Local Planning Authority.

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 biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with policies CLP16 and 20 of the Adopted Local Plan.

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 in accordance with policy CLP13 of the Adopted Local Plan.

11. 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 .

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal in accordance with policy CLP13 of the Adopted Local Plan.

12. Notwithstanding the submitted elevation plans; details; including samples, 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.

Reason: To ensure an appropriate finished form of development in accordance with Policy CLP20 of the Adopted Local Plan.

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. Prior to works on the hereby approved building(s) and land being commenced a scheme detailing the existing and proposed land levels of the site including site sections, spot heights, contours and the finished floor levels of all buildings with reference to on and off site datum point and their relationship to existing neighbouring buildings and land, to align with the proposed street scene plan shall be submitted to and approved by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

Reason: To ensure an appropriate finished form of development in accordance with policies CLP14 and 20 of the Adopted Local Plan.

15. a) Prior to installation, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing the proposed lighting scheme.  
b) All works shall be fully implemented in accordance with the approved scheme prior to occupation.

Reason: To ensure that the development does not appear as an unduly prominent feature in the area and in the interests of bat habitats in accordance with policy CLP16 of the Adopted Local Plan.

16. a) Prior to the development hereby permitted being occupied the upper floor side elevations windows shall be installed with obscure glazing in accordance with the elevation plan for each plot define in condition 2 above. The obscure glazing shall be obscured to a minimum of Pilkington - Privacy Level 3 or an equivalent product.  
b) Once installed the glazing shall be retained as such thereafter.

Reason: To safeguard the privacy and amenities of the future occupiers of adjoining properties in accordance with policy CLP14 of the Adopted Local Plan.

17. Prior to the commencement of development, a statement shall be submitted to and agreed in writing by the Local Planning Authority setting out how the development will address matters of climate change through the construction and occupation stages of the development.

Reason: To ensure that climate matters are fully considered in the construction and occupation of the dwellings in line with policy CLP20 of the Adopted Local Plan.

### **Informatives:**

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

2. Coal Authority Standing Advice:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

3. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

4. Highway informative:

a. 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.

b. The Highway Authority recommends that the first 5m of the modified driveway's 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

5. Yorkshire Water Notes for the Developer:

i) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he/she should contact our Developer Services Team (telephone 03451 208 482, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption – a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

## Item 2

Case Officer: EC  
Planning Committee 13<sup>th</sup> March 2023

Application No: CHE/22/00592/OUT

**PROPOSAL: RESIDENTIAL DEVELOPMENT OF TWO DWELLINGS -  
RE-SUBMISSION OF CHE/21/00143/OUT**

**LOCATION: REAR OF 66 SOUTH STREET NORTH, NEW WHITTINGTON,  
S43 2AB FOR RAWSON RESIDENTIAL RENOVATIONS LTD**

Local Plan: Unallocated  
Ward: Barrow Hill and New Whittington

### 1.0 **CONSULTATION RESPONSES**

Ward Members	No comments received
Environmental Health	No objections in principle. Conditions recommended covering hours of construction, lighting, electric vehicle charging
Yorkshire Water	No comments received
Derbyshire Wildlife Trust	No records of Derbyshire Biological Record Database and no records of protected species or notable habitats have been identified on or adjacent to the site. See report.
Local Highways Authority (Derbyshire County Council)	Comment received – no objection subject to conditions - see report.
Strategic Planning	The principle of residential development is in accordance with the adopted Local Plan policies CLP1 and CLP2 – there are a range of key services within a reasonable walking distance. See report
Representations	letters of objection from 5 neighbours – see section 6.0 of report for summary

## 2.0 THE SITE

2.1 The application site is located to the rear of No 66 South Street North, access to the site is indicated to be taken from Cross Wellington Street to the east.



Extract of submitted site location plan ©



Aerial image of site taken from Google earth ©







g2.2

The site comprises of the former garden associated with No 66 South Street North. No 66 faces onto South Street North to the west and consent was recently granted to divide the property into a pair of semi-detached dwellings (see site history below – application CHE/20/00071/FUL).

- 2.3 The application is a re-submission of previously refused application CHE/21/00143/OUT.

Reason for refusal

*The development of the site fails to appropriately reflect the prevailing pattern of development resulting in an incongruous form of development harmful to the built form and character of the area. Giving consideration to the indicative plan, the proposed plot size is inadequate to appropriately accommodate two new dwellings resulting in an overdevelopment of the site. This would lead to a cramped development with insufficient private amenity space, reduced internal floorspace and inadequate separation distances from existing neighbouring properties, such that the development is likely to result in harmful amenity impacts upon existing and future residents. The proposal therefore fails to meet the provisions of the 'Successful Places' SPD, Local Plan Policies CLP14 and CLP20 of Chesterfield Borough Local Plan 2018 - 2035 and part 12 of the National Planning Policy Framework.*

**3.0 SITE HISTORY**

- 3.1 CHE/21/00143/OUT - Outline permission for residential development of two dwellings – **REFUSED (02.02.2022)**
- 3.2 CHE/20/00071/FUL - Conversion of existing 4 bed house into two new 2 -bedroom semi's at 66 South Street North, New Whittington, Chesterfield S43 2AB - Additional drawing received 14th April 2020 – **CONDITIONAL PERMISSION (05.05.2020)**

**SURROUNDING SITE HISTORY**

- 3.3 CHE/12/00676/FUL - Proposed erection of four dwellings and associated ancillary works – **CONDITIONAL PERMISSION (18.12.2012)**
- 3.4 CHE/11/00035/FUL - Proposed erection of four dwellings and associated ancillary works – **REFUSED (16.03.2011) APPEAL DISMISSED**
- 3.5 CHE/10/00196/FUL - 4 Dwellings - 1no. 1 Bedroom Mews Flyover Dwellings, 1no. 3 Bedroom Semi - detached Dwelling and 2no. 2 Bedroom Semi - detached Coach House Dwellings – **REFUSED (23.06.2010)**



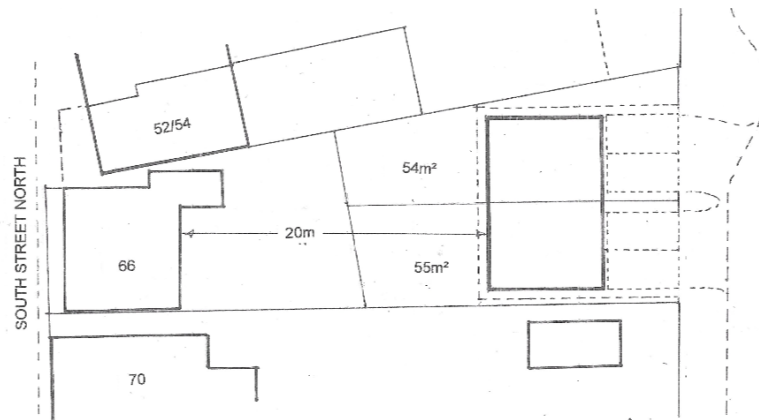
3.6 CHE/05/00678/OUT - Residential Development – **CONDITIONAL PERMISSION (06.12.2005)**

#### 4.0 **THE PROPOSAL**

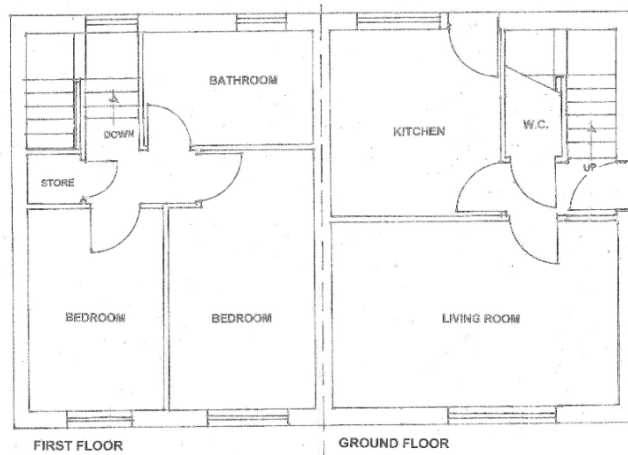
4.1 The application seeks outline consent for the erection of two dwellings with all matters reserved. The Local Planning Authority requested the submission of further details to assess the proposal, indicative layout and floor plans were subsequently provided including details of access and indicative parking arrangements.

4.2 In brief summary the indicative plans show

- Pair of two bedroom semi-detached dwellings, external footprint of 7.7m x 5.8m at ground floor level (overall gross internal floorspace approximately 89sqm per dwelling).
- The indicative layout shows the dwellings set back from the eastern boundary of the site by 4.9m to provide two parking spaces per dwelling, each space measuring 2.4m x 4.7m
- Private amenity space of approximately 54sqm and approximately 55sqm



Indicative site plan



Indicative floor plans

4.3 The applicant has lodged an appeal with the Planning Inspectorate against the none determination of the application. The Council were in the process of negotiation and discussion with the applicant regarding the proposal however the lodging of the appeal prevents the local planning authority from proceeding to making a decision on the application. This now rests with the Planning Inspectorate. However it is appropriate for the Council as local planning authority to determine how it may have determined the application (what it would have been minded to do) and this can form the basis of the Councils case on the appeal.

## 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)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle

- CLP14 A Healthy Environment
- CLP15 Green Infrastructure
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

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

- Part 2. Achieving sustainable development
- 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 **Reference Documents**

Technical Housing Standards – Nationally Described Space Standards

### 5.6 **Principle of Development**

#### **Relevant Policies**

- 5.6.1 The application site is not allocated for any specific use on the adopted Local Plan policies map and the principle of the development should be assessed against Local Plan policies CLP1, CLP2, CLP3.
- 5.6.2 Policy CLP1 Spatial Strategy 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...*'
- 5.6.3 Policy CLP2 Principles for Location of Development states '*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<sup>4</sup> 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*
- h) *Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
- i) *are not on the best and most versatile agricultural land;*

5.6.4 Policy CLP3 Flexibility in Delivery of Housing identifies clearly defined 'built-up areas' across the borough as set out on the Policies Map.

5.6.5 The Strategic Planning team were consulted on the proposal and confirmed that the site is located within the urban area therefore 'As a location within the urban area, the principle of residential development in this broad location is in accordance with the adopted Local Plan policies CLP1 and CLP2 – there are a range of key services within a reasonable walking distance'

5.6.6 Notwithstanding the above comments the development is required to comply with policy CLP20 with regards to design to ensure the development provides safe vehicle access and parking and a safe and attractive environment for pedestrians. Other matters for consideration include amenity for existing and future occupiers (CLP14 and CLP20), water efficiency standards (CLP13), measurable net gain in biodiversity (CLP16) and electric vehicle charging (CLP22). If approved the development would be liable for the Community Infrastructure Levy (CLP11) with the site being located in the medium charging zone.

5.6.7 On balance the principle of development in respect of the location of the site is considered to be acceptable and broadly in accordance with policies CLP1, CLP2 and CLP3 of the adopted

Local Plan, however matters of amenity, design and highway safety require further consideration and discussion in the following sections.

## **5.7 Design of the Proposal and Impact on the Amenity of Potential Occupiers and Residential Neighbours**

### **Relevant Policies**

- 5.7.1 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. All development should be at a density appropriate to the character of the area and to have an acceptable impact on the amenity of users and neighbours.'*
- 5.7.2 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'*
- 5.7.3 Local Plan policy CLP20 expects development to *'k) have an acceptable impact on the amenity of users and neighbours;'*
- 5.7.4 The adopted 'Successful Places' SPD is a material consideration and covers design and amenity considerations. The document also details minimum requirements for private open space (excluding parking areas). Minimum requirements are outlined in table 4 (p78) and states that a 1/2 bedroom dwelling should have a minimum of 50sqm of outdoor amenity space.

### **Considerations**

- 5.7.5 The application is submitted in outline with all matters reserved and is supported by indicative drawings. It is therefore necessary to assess the detail of the submitted indicative plans.

### **Design impact on built form/character**

- 5.7.6 The application site and surrounding streetscene is predominately characterised by traditional terraced/semi-detached properties with a distinct grid building pattern. The prevailing character to the south of the application site comprises of residential dwellings fronting east and west with relatively long rear gardens and vehicular access via a private track running north to south. The introduction of housing on Cross Wellington Street and also the re-development at land between No 44 and 66 South Street North immediately to the north of the site, created a small cluster of built form contrary to the grid character. This may also open the opportunity for further applications for redevelopment to the south in sites for which access is taken from a private poorly surfaced track.
- 5.7.7 The proposal for additional dwellings in this location will introduce tandem re-development contrary to the prevailing pattern of development. This may also open the opportunity for further applications for redevelopment to the south in sites for which access is taken from a private poorly surfaced track. The proposal is considered to be an over-intensive development of the plot which fails to reflect the prevailing pattern of development and results in adverse impacts on the amenity of existing and future occupiers (see following section).

### **Layout and Amenity impacts**

- 5.7.7 The submitted indicative plans show two dwellings with an angled boundary to the west with the new rear boundary of No 66 (and now No 68 South Street North). The adopted Successful Place SPD requires a minimum of 50sqm private amenity space for a two bedroom dwelling therefore the amenity space as shown although indicative would meet the requirements
- 5.7.8 The indicative layout provides further detail to assess the proposal and consider whether the scheme could provide appropriate separation between the existing and proposed dwellings. On the basis of the submitted indicative plan it is considered that a separation distance of approximately 20m could be achieved between the rear facing windows of No 66/68 South Street North and the proposed dwellings. A separation distance of 16m to 16.5m could be achieved between the indicative windows and the rear windows of existing dwelling No 52/54 South Street North.

- 5.7.9 The adopted Successful Place SPD sets out the minimum recommended separation distances between direct facing windows to be 21m (at 90-degree angle). The SPD sets out minimum recommended separation distance for different angles of site with a recommended separation distance of 18m for 70 degree to 90 degree angles of site.
- 5.7.10 It is accepted that the proposal is in outline with all matters reserved, however indicative layout plans have been provided to illustrate the scheme. In response to separation distances which are less than the minimum recommendation the design of the units has been altered to limit the number of first floor habitable room windows. The scheme will be required to include habitable rooms at ground floor to enable an outlook for future occupants and natural surveillance of the gardens. The scheme therefore does not appear to take into account habitable rooms at ground floor and proximity to existing nearby residential dwellings. The proposal would not meet the minimum recommended separation distances as set out within the SPD, therefore potentially resulting in adverse impacts of overlooking/loss of privacy to the residential neighbours to the west on South Street North.
- 5.7.11 The indicative layout shows two bedroom spaces, however it is worth noting that the width of the larger bedroom would not meet the minimum technical space standards at less than 2.75m wide.
- 5.7.12 It is also noted that due to the siting of the proposed dwellings, there would be a degree of overshadowing that will occur to the forecourt/parking area of Nos 48 and 50 South Street North immediately to the north of the application site.
- 5.7.13 The submitted scheme has been designed to attempt to demonstrate compliance with minimum standards, with minimum size parking spaces with vehicles parking up to the principal elevation of the dwelling with side access doors to avoid conflict with the parking spaces. This altogether demonstrates that the proposal would result in overdevelopment of the plot resulting in dwellings which do not meet the minimum recommended standards. The proposed development has the potential to result in dwellings with a compromised design to address the constraints of the site, which would not be in keeping with the character of the area resulting in a cramped scheme contrary to the prevailing character of the area and inadequate separation

distances, adversely impacting the amenity of future occupiers and neighbouring residents.

- 5.7.14 The proposal is therefore contrary to policies CLP14, CLP20 and the adopted 'Successful Places' SPD. The proposal fails to respect the character and form of the site and have an acceptable impact on the amenity of residents and neighbours.
- 5.7.15 In addition, the proposal would be contrary to paragraph 130 part f of the NPPF requires developments to provide a high standard of amenity for existing and future occupiers. The proposal does not reflect locally adopted design policies and government guidance on design and should therefore be refused in accordance with paragraph 134 of the NPPF.

## **5.8 Highways Safety, Parking Provision and Cycle Storage**

### **Relevant Policies**

- 5.8.1 Local Plan policy CLP20 expects development to 'g) provide adequate and safe vehicle access and parking and h) provide safe, convenient and attractive environment for pedestrians and cyclists'
- 5.8.2 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.*



*Cycle parking, where provided as part of new development, should be located to ensure safe, secure and convenient access, with weather protection where possible. The council will prepare an SPD to provide further practical guidance on planning for walking and cycling within new development.'*

### **Considerations**

5.8.3 The Local Highways Authority reviewed the scheme and provided the following comments;

*'The above proposal is a re-submission of a previous application which appears identical from a highways point of view; therefore, the following comments will be similar or based on the same. The proposed dwellings are in excess of the maximum mancarry distance of 25m from the public highway, however, give the nature of the route from the public highway to the site, which is included in the red outline boundary, it is not considered that this would cause severe harm. Whilst the level of parking provision is considered acceptable each parking bay should measure a minimum of 2.4m x 5.5m with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge or fence etc. therefore it is recommended the depth of the parking bays is increased. Additionally, vehicles will also require to enter and exit the site from Wellington Street in a forward gear i.e. sufficient space to the rear of the parking spaces (generally 6.0m) to allow vehicles to reverse out. From the information available, it is considered this could be accommodated'.*

5.8.4 No objections raised subject to conditions covering a construction management plan, creation of a new vehicular and pedestrian access before any other operations are commence, provision of off-street parking spaces measuring a minimum of 2.4m x 5.5m shall be provided prior to occupation and the gradient of the driveways shall be no steeper than 1:14

5.8.4 The comments from the Local Highways Authority have been noted. It is considered that off-street parking could be provided for each dwelling and if approved further detail would be required at reserved matters stage to ensure there is sufficient space to turn and leave Cross Wellington Street in a forward gear. It is necessary to highlight that the provision of a parking space measuring 5.5m in length will require the footprint of the dwellings to be set further back within the site thereby reducing the

separation distance between habitable room windows. The separation is already less than the minimum recommendation and this will further reduce the distance contributing to concerns regarding overdevelopment of the site with adverse impacts on amenity of residents.

#### 5.8.5

The site is situated approximately 45m from Wellington Street, which would be a substantial carry distance for waste disposal for future occupiers. Approved Document H states that containers should be within 25m of a waste collection point specified by the collection authority and householder should not usually be required to carry refuse more than 30m. The surface of Cross Wellington Street and access track is very poor and uneven, raising the concerns regarding accessibility and bin carry distance for future residents.



#### 5.8.6

On the basis of the above it is considered that the development could provide off-street parking for the proposed dwellings, however the provision of sufficient sized space will compromise the separation distances between properties. Access to the site is down a private poorly maintained track and there will be a bin carry distance of approximately 45m for future residents.

Notwithstanding concerns regarding the principal of the development further clarity could be provided on the parking arrangements/layout/bin collection areas at reserved matters stage to ensure the development accords with 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.'*
- 5.9.2 Local Plan policy CLP13 goes on to note that *'Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.'*

### **Considerations**

- 5.9.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. Having regards to the provisions of CLP13 and the wider NPPF the application was referred to the Council's Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water
- 5.9.4 Yorkshire Water were consulted on the proposal and no comments were received.
- 5.9.5 The Council's Design Services Drainage team were consulted on the scheme and no comments were received, however comments were made on the previous submission. The comments previously raised no concerns about the proposal with respect of flood risk and highlighted that the site should be developed with separate systems of foul and surface water drainage, any connections to the public sewerage network will require prior approval from Yorkshire Water and amendments to existing drainage may require Building Control consent.

5.9.6 If recommended for approval, matters regarding surface water drainage, including levels/hard surfacing and water efficiency could be controlled and agreed by condition to meet the requirements of Local Plan Policy CLP13.

## **5.10 Biodiversity and Landscaping**

5.10.1 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”.

5.10.2 The Derbyshire Wildlife Trust were consulted on the scheme and confirmed that there were no records of Derbyshire Biological Record Database and no records of protected species or notable habitats have been identified on or adjacent to the site. The site appears to be low impact in terms of ecology, therefore a requirements for ecological surveys would be disproportionate in this instance. Landscaping plans are reserved for later approval and native or wildlife friendly planting is recommended. To achieve a net gain for biodiversity and it is recommended a condition be imposed requiring installation of integrated swift bricks and integrated bat boxes.

5.10.3 The application site comprises of a former residential garden. It is considered that landscaping could be provided as part of a reserved matter submission to address the loss of biodiversity through additional measures such as bee bricks, bat/bird boxes and biodiverse native plants and enhanced landscaping. It is therefore considered that the proposal could meet the requirements of local plan policy CLP16 subject to an appropriate condition being imposed.

## **5.11 Community Infrastructure Levy (CIL)**

5.11.1 The development comprises new residential development. The Council’s Forward Planning Team confirmed that the site falls into the ‘Medium’ zone. The liability would be confirmed upon approval

of reserved matters stage and should be added to any permission regarding the potential liability.

## **6.0 REPRESENTATIONS**

6.1 Brief summary of main points raised in written representations, full comments available to read on website. Letters of objection have been received from 5 neighbouring properties raising the following points.

- access/highway safety concerns
  - access to the site via an unadopted private road which is not suitable for heavy traffic.
  - Proposal will result in an increase in traffic which will have an adverse impact on the quality of the surface of the road which is just a dirt track.
  - Existing road surface in poor condition and will continue to deteriorate and had no drainage.
  - Will developer take responsibility for maintenance of road? Will the council adopt the road?
  - Construction traffic will further damage Cross Wellington Street
  - Delivery of skips to the site has shown damage which can occur if heavy vehicles are permitted
  - Who will maintain the road will this fall to the developer or will the council adopt it?
  - access via third party land not within the ownership of the applicant. Road is privately owned, and access rights are for pedestrians not vehicles
  - Existing residents have to manoeuvre vehicles at the end of road to ensure they can park in front of own property
  - Insufficient parking for existing residents on the road as no house has car or garage facilities. New dwellings could have more than two vehicles per householder leading to pressure on surrounding streets
  - Existing parking issues on private road impacting access to off-road parking facilities/garages of residents
  - Existing developments in the area have led to increase in on-street parking, leading to problems on Wellington and Cross Wellington Street
- Amenity
  - Overlooking and loss of privacy to existing occupants and impacting amenity of future residents
  - Loss of view

- Windows located in direct eyeline of current residential dwellings
- Development will result in increase in traffic and noise
- Design/layout
  - Contrary to the character of the area.
  - Proposal will result in back garden development and set a precedent for further development on South Street North or Wellington Street. Precedent would be set for further back to back houses/gardens with no gardens, previously condemned and demolished. Back row housing would be dependent on unsuitable narrow lane access.
  - Property would not be in keeping with style of area which is mainly terraced houses.
- Drainage/surface water
  - Concerns regarding surface water and run off to unadopted road leading to more damage and erosion
  - Existing problems with surface water run off and drainage. Building on garden area will reduce rainwater soakaway and exacerbate problem
  - Gradient of land will lead to more water running downhill towards gardens and houses lower down
  - Proposed hardsurfacing will result in surface water run off onto Cross Wellington Street
  - Cross Wellington Street suffers with large amounts of surface water run-off from Wellington Street due to gradient of the land and issues with blocked drains and drainpipes emptying onto the pavement
  - It is not unusual for gardens to be underwater on Cross Wellington Street. Proposed hard surfacing will aggravate this and will cause more water to run off to adjacent properties
- Refuse/waste collection
  - Where will residents take their waste, presumably take the bins 30m to Wellington Street along a poor road surface as there is no access to South Street North.
  - Comments with DCC Highways suggest a 25m carry distance not acceptable. Existing properties built before wheelie bins and does not mitigate the building of new properties outside this distance
- Removal of wall and fruit bushes – provides food and shelter for birds and hedgehogs
- impact on protected species – bat roost on nearby house which is regularly used

- right of access – understand there is no right of access to the back of the property which renders the project unviable. How can the development proceed if there is no right of access
- Site notice not displayed

## 6.2 ***Officer comments***

- ***The above comments have been noted. The report sets out a response to concerns regarding the access/highway safety, amenity, design/layout, drainage/surface water and refuse/waste collection.***
- ***The Derbyshire Wildlife Trust were consulted on the proposal and raised no concerns regarding impacts on protected species and made recommendations to increase biodiversity on the site as part of the development.***
- ***Concerns regarding rights of access and maintenance of the private track would be a civil matter to be agreed with all relevant landowners.***
- ***A site notice was displayed on 9<sup>th</sup> September at the junction of Cross Wellington Street and Wellington Street***

## 7.0 **HUMAN RIGHTS ACT 1998**

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

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

7.2 It is considered that the recommendation is objective and in accordance with clearly established law. The applicant has also taken an opportunity to appeal the decision which will be determined by the Planning Inspectorate.

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country

Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the February 2019 National Planning Policy Framework (NPPF).

- 8.2 The scheme is a re-submission of a previous outline application which was refused CHE/21/00143/OUT. On this basis the requirement to engage in a positive and proactive manner is considered to be best served by the Local Planning Authority issuing a decision on the application and thereby allowing the planning inspectorate to determine the appeal.

## **9.0 CONCLUSION**

- 9.1 Overall the proposal is considered contrary to policies CLP14 and CLP20, of the Local Plan and the NPPF.

## **10.0 RECOMMENDATION**

- 10.1 That the Council as Local Planning Authority would have **REFUSED** the planning application for the following reasons:

The development of the site fails to appropriately reflect the prevailing pattern of built form resulting in an incongruous and over-intensive development harmful to the character of the area. Giving consideration to the indicative plan, the proposed plot size is inadequate to appropriately accommodate two new dwellings resulting in an overdevelopment of the site. This would lead to a cramped form of development with insufficient separation distances from existing neighbouring properties, such that the development is likely to result in harmful amenity impacts upon existing and future residents. The proposal therefore fails to meet the provisions of the 'Successful Places' SPD, Local Plan Policies CLP14 and CLP20 of Chesterfield Borough Local Plan 2018 – 2035 and part 12 of the National Planning Policy Framework.



### Item 3

Case Officer: Scott Nicholas  
Planning Committee 13<sup>th</sup> March 2023

CHE/22/00784/FUL

**CHE/22/00784/FUL - TEMPORARY SITING OF A MARQUEE WITH ASSOCIATED TEMPORARY PATH, ACCESS AND CAR PARKING, FOR USE IN CONNECTION WITH THE EXISTING BUSINESS AT DUNSTON HALL (FOR A PERIOD OF THREE YEARS), DUNSTON HALL, DUNSTON ROAD, CHESTERFIELD FOR DUNSTON HALL LEISURE LTD.**

Ward: Dunston  
Local Plan: Listed Building

#### 1.0 CONSULTATIONS

Ward Members	No comments.
Chesterfield Civic Society	Comments received – see report.
Derbyshire Wildlife Trust	Comments received – see report.
Site Notice & Advert and Neighbours.	15 Neighbour and public comments – see report.
Historic England	No comments to make.
DCC Highways	Comments received – see report.
CBC Design Services	No comments to make.
CBC Forward Planning	Comments received – see report.
CBC Environmental Health	Comments received – see report.
CBC Tree Officer	Comments received – see report.

#### 2.0 BACKGROUND & SITE

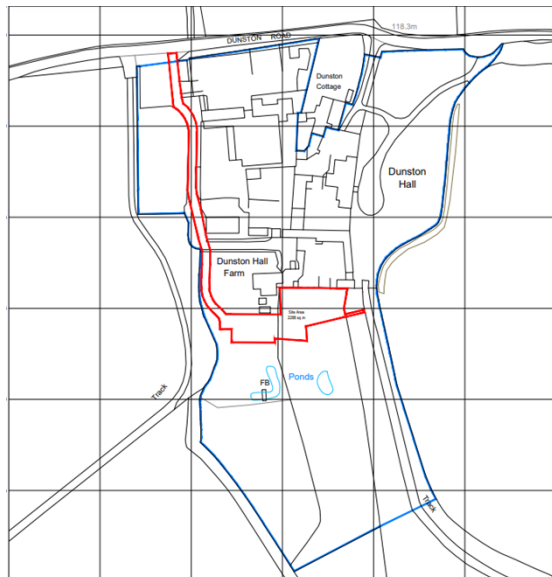
- 2.1 The applicant is proposing a temporary marquee, with associated temporary path, access and car parking for a period of 3 years located in the open countryside area to the south of Dunston Farmhouse and Dunston Hall (grade II listed, including associated former stables and barns). A modern garden centre and cafe, which is a part of the Dunston Hall environs is to the north. All of

these buildings, land and businesses are owned and managed by the applicant.

- 2.2 The application is partly retrospective as the path, access and car parking area have already been installed. A marquee was put up and used in accordance with permitted development rights in 2022 however this was subsequently taken down.
- 2.3 The application follows previous applications relating to Dunston Hall and the associated (but separately listed) barns and stables.
- 2.4 In 2021 Dunston Hall, including the former adjacent garage building, were granted listed building and planning consents, subject to conditions, to sympathetically refurbish the buildings for holiday let and wedding venue use for up to 120 guests (ref: CHE/21/00310/LBC, CHE/21/00374/LBC and CHE/21/00430/FUL).
- 2.5 In 2022 the grade II listed former stable buildings to the west of Dunston Hall were granted listed building consent and planning permission, subject to conditions, to create a new ancillary function room associated with the use of the Hall as a holiday let and wedding venue (ref: CHE/22/00112/LBC and CHE/22/0111/FUL).
- 2.6 In 2022 the grade II listed barns and outbuildings to the south of Dunston Hall were granted listed building consent for comprehensive repairs, refurbishment and structural works. The aim of these works was to provide further ancillary function rooms for the Dunston Hall wedding venue and holiday let use (ref: CHE/22/00618/LBC).
- 2.7 The reason for the current application, as the applicant's Planning Statement confirms, is to provide a temporary events space, in the form of the marquee, which can be utilised prior to the completion of the repair, refurbishment and use of the above listed former barns and stables. When these buildings are repaired and refurbished the intention is to remove the marquee from the site. The repaired and refurbished listed buildings would

then provide the necessary ancillary function rooms for the approved wedding venue use at Dunston Hall.

- 2.8 Given the sensitivity of the listed buildings and level of sympathetic repair and refurbishment works required, the works are likely to take some time. The repair and refurbishment will also be prolonged by the requirements for archaeological surveying and protection of existing bat roosts, the latter requiring protected species licensing from Natural England, in the context of seasonal surveying. The survey work cannot commence until April at the earliest. Consequently, a period of three years permission is requested for the proposed marquee.



### 3.0 PLANNING HISTORY

- 3.1 CHE/22/00618/LBC - Repair of Listed (former) farm outbuildings associated with Dunston Hall, including repairs to external and internal walls, roofs, floors, windows and doors. The insertion of a contemporary steel framework to provide necessary structural support. Granted conditional consent.
- 3.2 CHE/22/00111/FUL & CHE/22/00112/LBC - Alteration and conversion of existing outbuilding to create a new ancillary Function Room associated with the use of Dunston Hall as a holiday let and wedding venue. Granted conditional consent.

- 3.3 CHE/21/00430/FUL - Change of use of Dunston Hall from C3 to Sui Generis use permitting the building to be operated as a Holiday Let and wedding venue, including conversion of the existing garage building to create an internal space suitable for conducting wedding ceremonies, and the creation of a car parking area. Granted conditional consent.
- 3.3 CHE/21/00374/LBC - Replacement of existing roof, removal of garage doors, and installation of new french windows to create a wedding ceremony venue.
- 3.4 CHE/21/00310/LBC | Listed Building Consent for general improvement and reinstatement of internal areas. Granted conditional consent.
- 3.5 CHE/15/00172/FUL & CHE/15/00173/LBC - Conversion of barns and agricultural buildings into four dwellings including part new build to barn D. Granted conditional consent but unimplemented and expired.
- 3.6 CHE/09/00475/LBC - Conversion of barns and agricultural building to three dwellings. Application withdrawn.
- 3.7 CHE/06/00583/LBC - Conversion of barns into dwelling. Application disposed of.
- 3.8 CHE/1203/0824 - Conversion of outbuildings to form 4 dwellings. Granted condition consent but unimplemented and expired.
- 3.9 CHE/0398/0138 - Listed building consent for alterations to roof. Granted conditional consent.
- 3.10 CHE/0995/0480 - Listed Building Consent for work in kitchen. Granted conditional consent.
- 3.11 CHE/0995/0479 - Listed Building Consent for works in study. Granted conditional consent.

- 3.12 CHE/0195/001, CHE/0195/0002, CHE/0195/0003 & CHE/0195/0004 - Conversion of farm buildings to dwellings. Granted conditional permission but unimplemented and expired.
- 3.13 CHE/0194/0038 - Temporary use of site as landscape depot and nursery use. Granted conditional permission.
- 3.14 CHE/0891/0552 - Listed Building Consent for re-furbishment of barns to form 4 dwellings. Application withdrawn.
- 3.15 CHE/0791/0479 - Listed Building Consent for relocation of existing entrance walls and gateposts to provide new visibility splay. Granted conditional consent.
- 3.16 CHE/1290/0864 - Change of use from office and residential to office. Granted conditional consent.
- 3.17 CHE/0889/0584 - Permission for conversion of farm outbuildings to form 4 dwellings. Granted conditional consent. Unimplemented and expired.

#### **4.0 PLANNING POLICY, GUIDANCE & LEGISLATION**

##### **Chesterfield Borough Local Plan (2018-2035)**

- 4.1 In line with comments from the Councils' Forward Planning team, the most relevant policies to these applications are considered to be:
- CLP1 Spatial Strategy
  - CLP2 Principles for Location of Development
  - CLP6 Economic Growth
  - CLP7 Tourism and the Visitor Economy
  - CLP16 – Biodiversity, Geodiversity and the Ecological Network
  - Design (CLP20)

- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel

### **National Planning Policy Framework (NPPF)**

4.2 The most relevant policies to these applications are considered to be:

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 6. Building a strong, competitive economy
- Part 8. Promoting healthy and safe communities
- Part 15. Conserving and enhancing the natural environment
- Part 16. Conserving and enhancing the historic environment

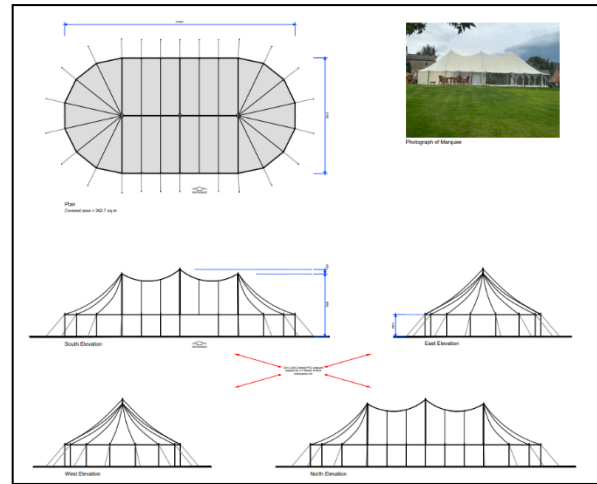
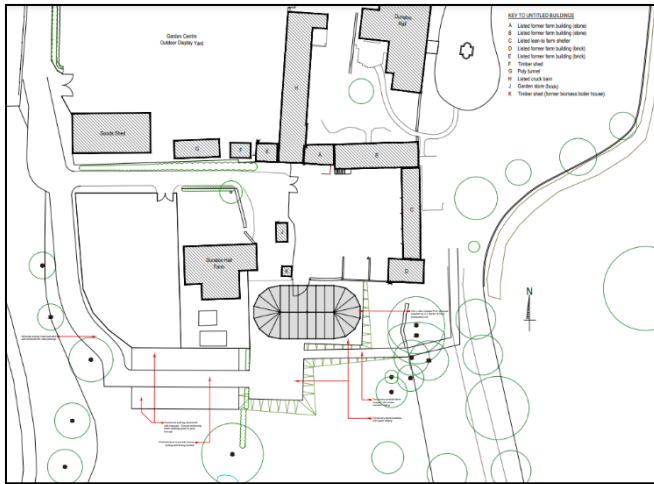
## **5.0 APPLICANT'S PROPOSALS**

5.1 The applicant is applying for planning permission for a temporary marquee for a 3 year period with temporary retrospective consent for associated temporary path, access and car parking, for use in connection with Dunston Hall as a wedding venue. The following documents are included supporting the application:

- Planning Statement (RCA Regeneration)
- Proposed Site Plan, Revised (DG Design)
- Proposed Elevations, Revised (DG Design)
- Tree Survey and Arboricultural Impact Assessment (TGA Consultants)

5.2 The applicant's Planning Statement states that: *'it is proposed to erect a marquee on the lawn to the south of the buildings, for a temporary period, to allow the new wedding business to continue to grow and support the beneficial use of the listed building. Due to the number of wedding enquiries being received, this would be required for in excess of the 28 days allowed for temporary structures under permitted development rights. As such, this application for temporary planning permission is required'*.

- 5.3 The Planning Statement confirms that *‘the application site specifically is an area of some 1657m<sup>2</sup> forming part of the lawned grounds of the property. An area of the lawn will be levelled and stoned, with grassed edging, to accommodate the marquee, with a crushed stone footpath to link to the path to the main house. The site is not located within the historic curtilage of any of the listed buildings.*
- 5.4 The Planning Statement was written prior to some of the works being applied for being carried out, including the base for the marquee, a gravel path, a reinforced mesh carparking area and vehicle access (consisting of a surface of road plannings), hence the Planning Statement is not entirely accurate. However, for clarification, the applicant’s agent submitted further information on 2/2/23 to confirm that these works had already been provided on site and that the description of development should be amended as retrospective to reflect this.
- 5.5 It was also stated that the marquee that had previously been in use was being used in accordance with existing permitted development rights but that this would be taken down and permission sought for a different marquee for a 3 year period. Revised plans were submitted showing the works already carried out and the proposed marquee.
- 5.6 The marquee would measure 12m (w) x 24m (l) and rise to 7m at its apex. It would be a ‘Celeste PVC’ type marquee’ and be constructed of PVC and canvas. It would be located approximately 6m south-west of Dunston Hall Farm and approximately 7m from the nearest grade II listed former barn building. A proposed site plan, elevations, and an image of the proposed marquee are shown below. Images are also shown of the existing wire mesh carparking area and access road surfaced with road plannings.







## 6.0 ASSESSMENT OF PROPOSALS

6.1 The key issues in this application are considered to be:

- Principle of use and development
- Impact on neighbouring residential amenity
- Impact on heritage assets
- Highway safety and parking provision
- Biodiversity and impact on protected species and trees

### **Principle of use and development**

6.2 The proposed temporary marquee would be ancillary to the Dunston Hall wedding venue use granted consent subject to conditions, in 2021 (ref: CHE/21/00430/FUL). Therefore, the principle of a wedding venue use in this location has already been granted and was considered to be consistent with Local Plan policies, namely CLP1 and CLP2 which seek to deliver wider regeneration and sustainability benefits to the area including economic growth under policy CLP6 and tourism under policy CLP7.

- 6.3 It is considered that the current proposals are in accordance with the criteria set out in policy CLP2 (i) of the Local Plan, in that they demonstrate that the proposed use needs to be in a specific location in order to make functional links to an existing use.

### **Impact on neighbouring residential amenity**

- 6.4 Concern has been raised previously during consultation on previous applications (ref: CHE/21/00430/FUL & CHE/21/00374/LBC) by the neighbours at Dunston Hall Farm and Dunston Cottage (the Bungalow) that the proposed wedding venue would result in noise and nuisance to neighbouring residents (NB: Dunston Farm is now owned by the applicant, hence concerns about residential amenity at this property is currently no longer an issue).
- 6.5 As a result of this concern, conditions were placed on the planning consent to ensure that the development complied with Local Plan policy CLP14: Healthy Environment. These stipulated that:
- The number of guests attending any event shall be limited to no more than 120 at any one time (condition no.4).
  - There shall be no firework displays associated with wedding events held at the Hall (condition no.5).
  - The number of wedding or similar events taking place at the premises shall be limited to no more than 2 per week taking place on a single day (condition no.7).
  - To the exterior of the premises and within the grounds there shall be no amplified sound (condition no.8).
  - The use of the premises shall not commence until an event management plan is submitted to and agreed with the Local Planning Authority. The event management plan should provide information about the management of noise, nuisance and behaviour during any events held at the site. The agreed details of the management plan shall be in operation during any events held at the site (condition no.17).

- 6.6 It is considered that the same conditions will apply to the current application. These conditions will continue to establish the parameters under which the wedding venue use operates, and which will include the marquee. Given the proximity of the proposed marquee to neighbouring residential areas and recent complaints about loud music, it is considered appropriate to secure a robust Noise Survey to be prepared and submitted for approval by the Council prior to the use and occupation for the marquee. This will include the measures the applicant proposes to use in terms of noise generation and how it can be mitigated to overcome impacts on local residents. This can be secured by a new condition arising specifically from the proposed marquee and be seen as part of the wider events management plan for the site.

### **Impact on heritage assets**

- 6.7 None of the existing works or proposed marquee are within the curtilage of the listed buildings. Development proposals that are adjacent or close to listed buildings are normally assessed in terms of the impact they would have on the setting of the listed building. But no permanent structures as such are being proposed as part of this application. Whilst the marquee would have a significant visual impact on the setting of the grade II listed barns to the south of Dunston Hall, and some peripheral impact on grade II listed Dunston Hall to the north, this would only be a temporary impact. The existing green mesh car parking area and access lane are considered to have a low visual impact and blend in reasonably well with existing environs of Dunston Hall and its garden centre.
- 6.8 Moreover, the applicant's justification for the marquee is to provide temporary facilities for wedding venue guests whilst the grade II listed barns, which are in a very precarious structural state, are being repaired and refurbished under application CHE/22/00618/LBC. It is considered that a temporary consent for a marquee will provide the applicant with the required facilities to allow the wedding venue use to be sustained and continued, and thus allow the repair and restoration of the grade II listed barns, which is considered to be a key heritage objective.

### **Highway safety and parking provision**

- 6.9 The application would not result in any new access point onto the highway, as any vehicles accessing the newly created green mesh car parking area would use the existing vehicle access that serves the garden centre and existing carpark.
- 6.10 DCC Highways are not objecting to the application.
- 6.11 The proposed temporary green mesh parking area is designed to be an 'occasional' car parking area for those using or accessing the marquee. The proposed site plan shows that there would be spaces for 20 vehicles. The area blends in well with surrounding lawn and grass, as the wire mesh allows grass to grow through the mesh. 20 temporary vehicles spaces are considered to be the maximum considered appropriate for the proposed temporary marquee given the sensitive location and the number of spaces which exist at the site associated with the hall and garden centre.
- 6.12 DCC Highways refer to the previous planning application (CHE/21/00430/FUL) when they recommended a condition limiting guests to 50. This was on the basis of limiting traffic generation, parking, and potential intensification of use of the access however due to concerns that this limit would not economically sustain a wedding venue use, the planning committee view was that this should be raised to 120 guests. This was approved but subject to a number of conditions to ensure highways safety, including the provision of a suitable car park design; improved visibility splays; access track improvements; and a car park management plan.
- 6.13 The same conditions can be applied to the current planning application.

### **Biodiversity and impact on protected species**

- 6.14 The grade II listed barns and stables north of the proposed marquee are known to have a presence of bats. This has been evidenced by previous surveys and the Derbyshire Wildlife Trust requested that updated Bat Survey work as part of the recent

planning and listed building consents (ref: CHE/22/00618/LBC, CHE/22/00111/FUL & CHE/22/00112/LBC).

- 6.15 The Derbyshire Wildlife Trust confirm that they have no objections to the proposals but recommend that given the proximity of the marquee to bat roosts during the installation or operation of the marquee no light should be directed at any integrated bat boxes within the outbuilding closest to the marquee. This can be secured by condition.
- 6.16 They also recommend that the marquee is removed once the outbuildings are operational to restore the habitats and flightlines to the south for resident bats. This application is predicated on the removal of the marquee when those buildings do become operational, so this advice will be followed.
- 6.17 The Council's Tree Officer has commented on the loss of some trees and vegetation as a result of the works already carried out, and he recommends that a landscaping restoration scheme is provided once the marquee and temporary ground works are removed. This can be secured by condition.

## **7.0 CONSULTATION COMMENTS**

### **Chesterfield Civic Society**

- 7.1 The Civic Society highlight the historic significance and evolution of Dunston Hall and the associated barns and outbuildings and refer to comments they have made on previous Dunston Hall applications. They do not object to the proposed temporary marquee on the grounds that it would adversely affect the setting of any of the listed buildings at Dunston Hall.
- 7.2 They highlight the impact the marquee and associated carpark would have on any potential occupiers of Dunston Farmhouse given its close proximity and that this would result in a loss of privacy and amenity and reduce the property value (NB: Dunston Hall Farmhouse is now owned by the applicant).

- 7.3 They state that the applicant has not given any reasons for wishing to erect a marquee and create additional parking spaces and that a car-park at the front of Dunston Hall is currently being built.
- 7.4 They highlight the recent applications to convert the former farm buildings to use in connection with his business and they are not clear why the applicant needs this additional accommodation. The Civic Society feel that it is incumbent on the applicant to explain the reason for this further work.

### **CBC Tree Officer**

- 7.5 The Council's Tree Officer requested that an Arboriculture Impact Assessment (AIA) be submitted with the application on the basis that there was a lack of clarity about what impact the proposals would have on existing trees.
- 7.6 This was subsequently prepared by TGA Arboricultural in accordance with relevant standards to record the species and dimensions of the relevant trees, and to assess the trees for their quality and benefits within the context of proposed development. A Tree Schedule was also included showing comments and recommendations for each tree identified.
- 7.7 The Council's Tree Officer was consulted on the Tree Survey and commented that *'there are no objections to the application in general because there will be minimal impacts on the retained trees, however, there are concerns with regards to the trees and vegetation removed and other construction impacts to facilitate the development before a decision has been made on the application. It is therefore recommended that a condition is attached if consent is granted to the application for a landscaping restoration scheme once the marquee and temporary ground works are removed'*.

### **CBC Forward Planning**

- 7.8 Forward Planning apply the policies in the adopted Local Plan, including those related to the Councils Spatial Strategy (CLP1); Principles for Location of Development (CLP2); Biodiversity (CLP16); Sustainable Travel (CLP22); Economic Growth (CLP6); Design (CLP20); and Heritage (CLP21).
- 7.9 They confirm that the site is not within a built-up area and is located immediately to the south of Dunston Hall Farm and to the east of the Dunston and Sheepbridge Green Wedge (GW3) as identified on the Local Plan Policies. The red line boundary intersects very slightly with the Green Wedge at the most easterly point of the site.
- 7.10 Overall Forward Planning consider that the proposed development does not generally accord with Local Plan policies, unless it is determined that the development meets the exception in policy CLP2 (criteria i). This states that exceptions to the council's Spatial Strategy will be considered where development proposals can clearly demonstrate that the proposed use needs to be in a specific location in order to make functional links to other, existing uses.
- 7.11 They state that if the Case Officer is minded to approve the proposal, biodiversity net gain, electric vehicle charging (temporary/portable charging stations are readily available) and cycle parking will all need to be secured via condition.
- 7.12 Forward Planning also subsequently raised the issue of potential amplified sound at the proposed marquee as a result of comments from the Council's Environmental Health Officer. They state that the proposed development would need to have an acceptable impact on amenity to comply with Local Plan policy CLP14.

### **DCC Highways**

- 7.13 DCC Highways make reference to comments they made on previous Dunston Hall applications (ref: CHE/21/00430/FUL), where they recommended the wedding venue use be restricted to 50 guest to lessen the impact of traffic generation, parking, and



potential intensification of use of the access (NB: Planning Committee subsequently recommended that guests be limited to 120).

- 7.14 Subsequent comments received from DCC Highways on 24/2/23 state that they have no highway safety objections to the application.

### **CBC Environmental Services**

- 7.15 The Council's Environmental Services Officer raised concerns about potential noise emanating from the proposed marquee and confirmed that he had received complaints from the public when it was previously installed in 2022. He also confirms that he witnessed the marquee in use himself and on one occasion believes that it may have given rise to an actionable noise nuisance and Abatement Notice.

- 7.16 As such, he recommends that its use should not commence until an event management plan is submitted to and agreed with the Local Planning Authority. The event management plan should provide information about the management of noise, nuisance and behaviour during any events held at the site. The agreed details of the event management plan shall be in operation during any events held at the site.

### **Derbyshire Wildlife Trust (DWT)**

- 7.17 The Derbyshire Wildlife Trust confirm that no notable habitats have been recorded to date on or adjacent to the site and that the site is not covered by statutory or non-statutory nature conservation designation. They note that impacts are limited to the loss of a small area of amenity grassland and are unlikely to have a substantive adverse effect on biodiversity.

- 7.18 They confirm that they are aware of the bat roosts in the adjacent listed buildings and that bat licenses have been sought by the applicant to carry out listed building conversion works under the



relevant consents (ref: CHE/22/00618/LBC, CHE/22/00111/FUL & CHE/22/00112/LBC).

- 7.19 Given the proximity of the marquee to these buildings the DWT advise that during the installation or operation of the marquee no light should be directed at any integrated bat boxes within the outbuilding closest to the marquee. If lighting is required, they advise that the LPA should request details of the type and location(s) to be approved prior to installation. They also recommend that the marquee is removed once the outbuildings area operational to restore the habitats and flightlines to the south for resident bats.

### **Local Residents**

- 7.20 A total of 15 objections to the proposals have been raised from local residents who live in the residential properties around Dunston Grange Farmhouse (approx. 250 meters south of the marquee) or at the new Skylarks development (south of Dunston Grange Farmhouse).
- 7.21 The objections are primarily based on the potential for loud music in and around the marquee. This is because residents experienced loud music in 2022 and complaints were made to the Council. It is feared that the loud music will continue should a temporary marquee be granted consent. Local residents' comments on the noise issue can be summarised as follows:
- Loud music has been played until late at night and this has caused a lack of sleep.
  - Loud music has meant that windows have not been able to be opened, particularly in the summer.
  - Loud music has deterred outside garden activity, particularly in the summer and weekends.
  - Loud music has been played during unsociable hours, and there are no sound barriers.
  - Loud music has caused dogs to bark in the nearby kennels which is a nuisance to residents as well as cruel to the dogs.

## **Closest resident at Dunston Cottage**

7.22 The resident at this property has made a number of comments, the key points of which are summarised as follows:

- All the works being requested by the applicant in his “application” were completed months ago, for example the Marquee was erected on the prepared crushed stone based area by 1st August 2022.
- The access road was completed and all the very mature trees that were in the previous boundary between Dunston Hall Farm and the land owned by Harrison, which can be seen on Google maps, as they were before work commenced on site in May - July 2022, were felled and totally removed.
- Re visual and conservation issues, very large, mature trees, old dry stone walls and bushes have that provided habitat for numerous species of wildlife have been totally obliterated, any tree protection orders in place?
- Re Highway safety, increased traffic and no signage mean that cars are attempting to turn into my driveway then reverse back onto Dunston Road, which is very dangerous, to find where to get onto the road leading round to Dunston Hall Farm and the marquee.
- There are conditions to the Dunston Hall holiday let and wedding Venue, which prohibit amplified music outdoors. I have a recording of amplified sound coming from the marquee on the 4th November 2022. The Marquee is on land at Dunston Hall.

## **8.0 CONCLUSION**

8.1 Subject to conditions to ensure the protection of residential amenity, landscaping and biodiversity, it is considered that the proposed temporary works and temporary marquee are acceptable in planning terms. The principle of the proposed wedding venue use has already been consented at Dunston Hall, subject to conditions via application CHE/21/00430/FUL.

8.2 In this context it is considered that the proposals are in accordance with the criteria set out in policy CLP2 (i) of the Local

Plan, in that the development proposals demonstrate that the proposed marquee needs to be in a specific location in order to make functional links to an existing use.

8.3 The proposed use would be ancillary to the granted wedding venue use, so the proposals should not be generate any new wedding venue guests over and above 120 (which was included by planning committee via planning condition on CHE/21/00430/FUL).

8.4 Regarding the impact on the setting of the listed buildings, this is not considered to be major issue given the marquee is not a permanent structure and will eventually be removed. Any temporary harm to the setting of the listed buildings should be balanced against the benefits the eventual repair and refurbishment of grade II listed barns to the north, which to a certain extent is predicated on the viability and success of the wedding venue business.

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

9.1 The Government (since the 1st December 2012) requires Local Planning Authorities to include a statement on every decision letter stating how they have worked with the applicant in a positive and proactive way.

9.2 The Conservation Officer has been available to liaise with the applicant to ensure that any proposals were consistent with local and national planning policies regarding the historic environment.

## **10.0 HUMAN RIGHTS ACT 1998**

10.1 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.

10.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application. The decision taken is objective, based on all planning considerations and is, therefore, not irrational, or arbitrary. The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.

10.3 The interference caused by a refusal, approval, or approval with conditions, based solely on planning merits, impairs as little as possible with the qualified rights or freedoms of the applicant, an objector or consideration of the wider Public Interest.

10.4 The recommended conditions are 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.

## **12.0 RECOMMENDATION**

12.1 That the application be **GRANTED PLANNING PERMISSION** subject to the following conditions:

01. This permission is valid for a limited period only, expiring on 13th March 2026. On or before that date the marquee shall be removed from the site and the land shall be restored in accordance with an agree Landscaping Plan as outlined in condition No.3 of this consent.

Reason: The development meets a short term need and is of a type not considered suitable for permanent retention in accordance with policies CLP20 and CLP21 of the Adopted Chesterfield Local Plan.

02. The development hereby approved shall only be carried out in full accordance with the approved plans and drawings with the exception of any specified conditions, pending listed building consent and approved non-material amendment:
- Location plan, revised (PM100)
  - Proposed site plan, revised (PM300)
  - Plans & Elevations (PM200)

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.

03. Prior to removal of the marquee hereby approved, details of the restoration treatment of the site 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 the removal of the marquee. Details shall include:
- a) a scaled plan showing vegetation to be retained and trees and plants to be planted:
  - b) a schedule detailing sizes and numbers of all proposed trees/plants
  - c) Sufficient specification to ensure successful establishment and survival of new planting.
  - d) details of the timing schedule (month/year), method and restoration works for the development site.
04. 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. 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 biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality

05. Prior to the temporary marquee hereby granted consent becoming operational, a Noise Assessment shall be submitted to the Council for approval in writing. The Noise Assessment shall be in accordance with standard BS4142 and shall include:

- The reason for and scope of the report.
- Location plan of proposed use and likely noise receptors.
- Methodology used including proposed noise generation, location of noise monitoring, equipment used, weather conditions, etc.
- Any reasons for deviations from standard methods.
- Table of results.
- Comparison of survey results with noise standards.
- Recommendations for noise control measures.
- Calculations of the noise reductions expected to support any suggested noise control measures.

Only those measures agreed by the Council in writing shall be implemented as part of the development.

Reason: To minimise the impact of events on the amenity of neighbouring residents in accordance with policy CLP14 of the Local Plan.

06. In accordance with the consent and attached conditions granted under CHE/21/00430/FUL, the number of guests attending any event shall be limited to no more than 120 guests at any one time.

Reason: To minimise the impact of events on the amenity of neighbouring residents in accordance with policy CLP14 of the Local Plan.

07. There shall be no firework displays associated with wedding events.

Reason: To minimise the impact of events on the amenity of neighbouring residents in accordance with policy CLP14 of the Local Plan.

08. The number of wedding or similar events taking place at the premises shall be limited to no more than two per week.

Reason: To minimise the impact of events on the amenity of neighbouring residents in accordance with policy CLP14 of the Local Plan.

09. Unless otherwise agreed by the planning authority in writing, there shall be no direct lighting shone towards Building D (as shown in the Bat Survey Report, Middleton Bell Ecology, Sept 2022, ref:CHE/22/00111/FUL).

Reason: To protect ecology and biodiversity in accordance with policy CLP16 of the Chesterfield Local Plan.

#### Notes

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

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## Item 4

Case Officer: Chris Wright

Application No: CHE/22/00680/FUL

**PROPOSAL: Demolition of existing buildings and erection of a self storage facility (Unit 1) including office use (Class E(g)(i)) of 186 sqm and two employment units comprising Unit 2 Class E (g)(ii)/E (g)(iii) & B8 and Unit 3 Class E(g) & B8 and associated parking, servicing areas and landscaping (revised drawings received 26th and 27th January 2023)**

**LOCATION: Former Simply Gym, Sheffield Road, Whittington Moor, Chesterfield for McCarthy's Storage World (Chesterfield) Ltd.**

Planning Committee 13<sup>th</sup> March 2023

Ward: Moor

### **1.0 CONSULTATION RESPONSES**

Ward Members: No comments received

Highways Authority: No objection, subject to conditions

Environmental Health: Requested further information regarding lighting, noise and land contamination. No detailed response from the agent in this regard, or further comments from environmental health provided.

Strategic Planning: No objection, subject to conditions for EV charging and biodiversity.

Lead Local Flood Authority: No objection

Design Services: No objection.

Yorkshire Water: No objection subject to conditions

Economic Development: No comments received.

Cycle Campaign: No objections received, requested that cycle parking to be conditioned.

Derbyshire Wildlife Trust: No objection, subject to conditions

Coal Authority: Material Consideration.

Representations: 1 objection received in regards the overbearing nature of the building to the rear of the houses on Sanforth Street.

Derbyshire Constabulary: Previous comments requesting changes and more information regarding fences – after revised drawings were submitted the proposals are now acceptable.

Tree officer: No objections, subject to conditions.

## 2.0 THE SITE

2.1 The site the subject of the application is on Sheffield Road, opposite Chesterfield FC Stadium and which is a main thoroughfare along Whittington Moor. The Glass Yard development is located to the north (which includes a selection of business units including showrooms, a food hall, estate agents and other uses) and Stand Road park is located to the north west. To the south and west of the site are residential dwellings.



2.2 The site currently accommodates a large building which is 50m wide by 53m deep and which is split into two different types/uses. The cladded rear

building was most recently used as a gym and the front rendered flat roof two storey building was used as offices and facilities associated with Chesterfield Football Club however both parts are currently vacant. There is car parking to the front and rear and the site is bounded by mature trees to the west, south-west and north-west. A number of the trees to the rear are protected by Tree Preservation Order.

- 2.3 The building was built as a nightclub (Aquarius) and has had permission for several different uses since. There is an incline in levels on site from rear to front, with the rear car park several metres higher than the front of the site.
- 2.4 The surrounding area has a range of architectural influences, with rendered pitched roof terrace-style buildings on Sheffield Road to the south of the site, Chesterfield Football Club stadium to the east of the site (which has a curved roof, brick finish, blue cladding and glazing), older mixed use industrial style buildings and more terraced-style brick finished and rendered mixed use buildings further north of the site. To the direct north of the site there is the Glass Yard development, which is a mix composite cladding and glazing and contemporary metal roof sheeting. The area is mixed and accommodates large format buildings as well as two storey terraced dwellings.

### **3.0 SITE HISTORY**

- 3.1 CHE/0391/0203 - Outline application for B1 business uses – Conditional permission – 15/05/91
- 3.2 CHE/0391/0202 - Outline application for residential development – Conditional Permission - 15/05/91
- 3.3 CHE/0994/0530 - Retention of use of Aquarius car park for car boot sales – Conditional Permission – 17/11/94
- 3.4 CHE/0199/0004 - Outline application for erection of travelodge hotel – finally disposed of – 17/03/00
- 3.5 CHE/0999/0530 - Application for a certificate of lawful use for use as a health and fitness centre within class D2 – Conditional Permission - 19.10.1999
- 3.6 CHE/0999/0537 - External alterations – Conditional Permission - 11/01/00

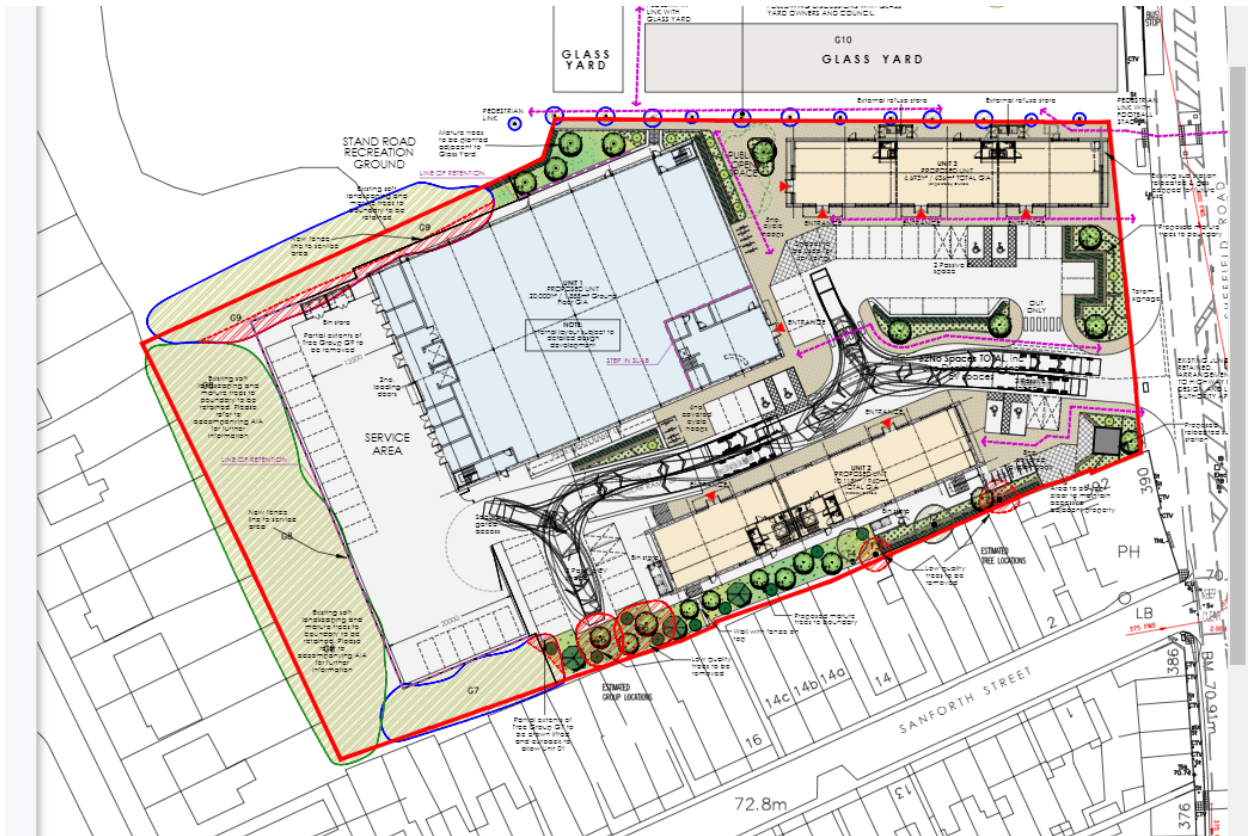
- 3.7 CHE/0100/0002 - Change of use of the front part of the former Gate Night club to a residential training centre within Class C2 for staff training purposes – Conditional permission – 10/02/00
- 3.8 CHE/0200/0080 - Erection of illuminated fascia signs – Conditional Permission – 14/03/00
- 3.9 CHE/0700/0455 - External lighting scheme for existing car park – Conditional Permission - 16/10/00
- 3.10 CHE/05/00092/ADV - Fascia and free standing signs – Conditional Permission - 07/04/05
- 3.11 CHE/07/00735/RET - Retention of secure bin store – Unconditional Permission – 15/11/07
- 3.12 CHE/18/00047/ADV - Replacement of 2 high level existing signs to new brand. replacement of 2 car park totem signs (main ground level entrance signs to use existing frames) – Conditional Permission – 19/04/18
- 3.13 CHE/20/00112/ADV - Signage to front elevation - Invalid Application Returned – 10/05/22

#### **4.0 THE PROPOSAL**

- 4.1 Planning approval is sought for the demolition of existing buildings on site and the erection of a self storage facility (Unit 1) including office use (Class E(g)(i)) of 186 sqm and two employment units comprising Unit 2 Class E (g)(ii)/E (g)(iii) & B8 and Unit 3 Class E(g) & B8 and associated parking, servicing areas and landscaping. The proposal has been altered during the application with the buildings moved from their original locations, albeit with the buildings design remaining largely the same.
- 4.2 Unit 1 is 54m deep by 36m wide and a 14m height to the front and 13m height to the rear (due to the variation in land levels); it is proposed to have 3 floors internally, including an ancillary office section to the front corner. The building would be clad in metal sheeting in shades of dark grey, light grey and blue; with a glazed south-eastern corner and blue wrap around section including the branding from the company to the front. It would have high side walls with a shallow pitched roof.

- 4.3 Unit 2 would have a 10.4m width, a 52m length and a 9.8m height to the front and 8.3m height to the rear. It would have two floors with a brick finish on the ground floor and to the front side elevation and dark grey vertical composite cladding on the sides and metal roof sheets. It has multiple windows to the northern side and full length slim windows to the southern side and a pitched roof. Its exact proposed use is unclear at present, but it is separated into 2 units internally, but with some internal changes it could be adapted into 1 or 4 units.
- 4.4 Unit 3 is 10.5m wide, 49m long and 8m in height. It is a single storey building and is for 3 separate units. It has three separate shop frontages, with glazed sections including entrance doors and signage to the southern side, and smaller glazed sections, doors and signs for the northern side. The front of the building also has a glazed and brick section, with entrance doors. The building has some sections of red brick and dark grey vertical cladding and metal roof sheets. No exact business use or companies have been named linked to these units.
- 4.5 The existing access into the site will be altered but it is in broadly the same location. It is proposed to retain the majority of the groups of protected trees G7, G8 and G9, albeit with some crown raising and thinning. It is also proposed to add additional tree planting to the southern group of trees, plant mature trees to the north corner of the site as well several other patches of landscaping. It is proposed to have 62 parking spaces on site and 5 cycle parking loops.
- 4.6 No statement has been provided about the proposed demolition plan.
- 4.7 The scheme has been altered, with the layout revised after comments from the Council with the main change with the swapping of unit 1 and 2 and the related internal roads, parking and landscaping.

The revised scheme layout:



- 4.8 The development incorporates sustainability measures through minimising energy use including consideration to using a range of low carbon and renewable energy technologies. Sustainable building materials are to be used choosing materials with low embodied energy and a sustainable approach is proposed to construction to reduce disturbance and the impacts on the surrounding area. Sustainable transport, waste management and sustainable site management are all to be included.

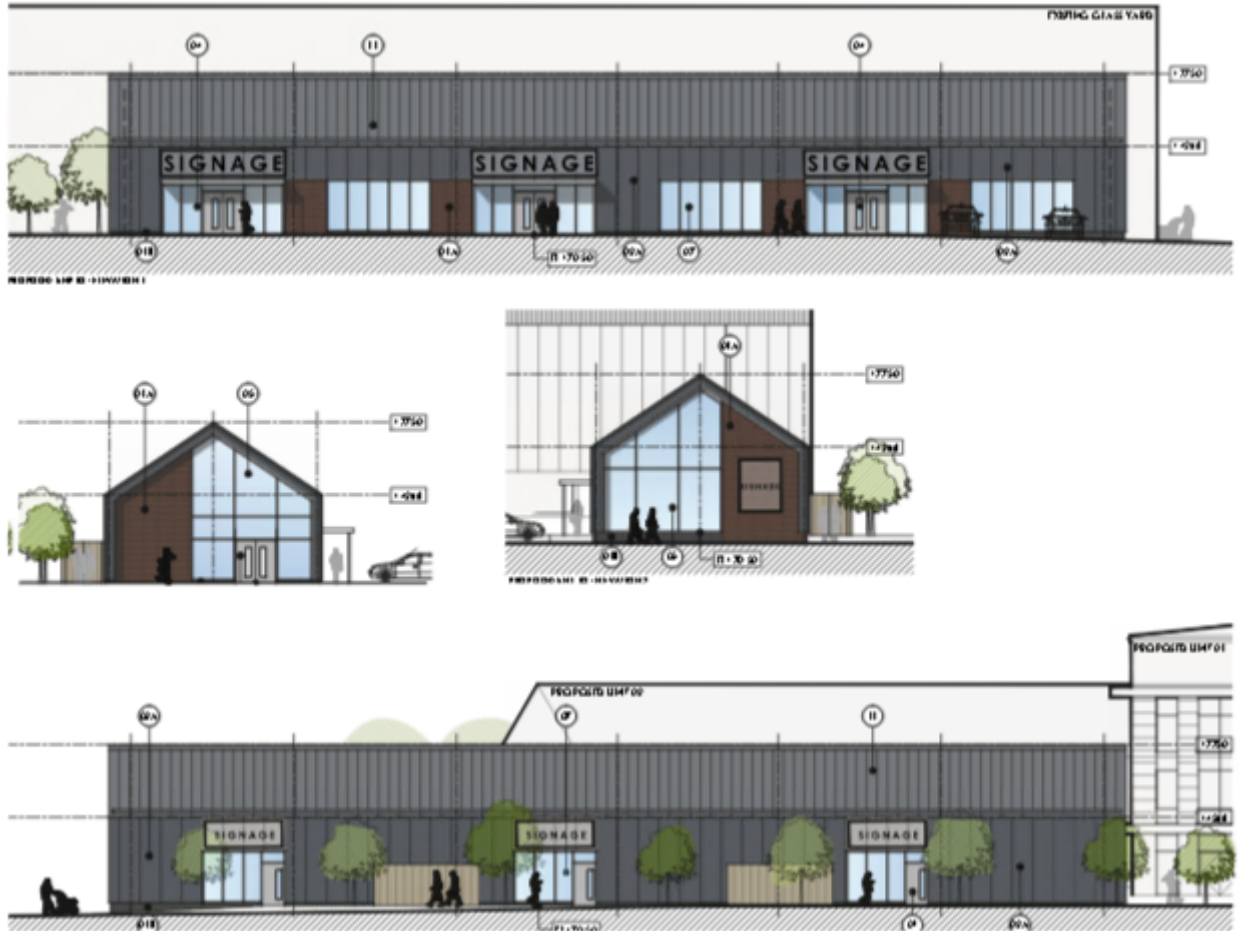




Unit 1



Unit 2



### Unit 3

## 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

- CLP2 Principles for Location of Development (Strategic Policy)
- CLP6 Economic Growth
- CLP8 Vitality and Viability of Centres
- CLP9 Retail
- CLP10 Social Infrastructure
- 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**

- Chapter 2 Achieving sustainable development
- Chapter 6: Building a strong, competitive economy
- Chapter 8 Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 12 Achieving well-designed places
- Chapter 15 Conserving and enhancing the natural environment

## **6.0 CONSIDERATION**

### **6.1 Principle of Development**

6.1.1 The application concerns an existing employment site on the edge of the Whittington Moor District Centre. In this location policy CLP6 states that permission will be granted for office and light industrial uses (now Use class E(g)(i to iii)). B8 uses will be permitted where they would not have an unacceptable adverse impact as a result of traffic movements. The proposed use is therefore appropriate in principle in this location, subject to consideration of the impact of traffic movements by the Highways Authority.

6.1.2 Use Class E now includes other uses that would need to be the subject of a sequential assessment in this location. It also includes uses that would be subject to the council's Community Infrastructure Levy (CIL) and it is considered to be appropriate to include a condition restricting the uses on the site to offices, light industrial, research and development, and storage and distribution, to ensure that the development meets the requirements of the sequential test set out in the NPPF and to ensure the development is not inappropriately subject to the Community Infrastructure Levy (CIL).

### **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 surrounding area has a range of mixed architectural influences, with rendered pitched roof terrace-style buildings on Sheffield Road to the south of the site, Chesterfield Football Club stadium to the east of the site (which has a curved roof, brick finish, blue cladding and glazing), older mixed use industrial style buildings and more terraced-style brick finished and rendered mixed use buildings further north of the site. To the direct north of the site there is the Glass Yard development, which is a mix of striped vertical composite cladding and glazing and contemporary metal roof sheeting.



6.2.3 The proposal will introduce an increase in composite-clad industrial buildings albeit with sections of brick and glazing, with units 2 and 3 the closest buildings to the street, with these being smaller scale 1 and 2 storey pitched roof buildings which are appropriate in scale and materials to the surrounding area. Unit 1 is a much larger building and is setback from the road to the rear of the site but which is not inappropriate. It is also within an area that has a range of larger industrial-style buildings that include metal cladding, metal sheet roofing and flat less-detailed elevations. As unit 1 is set back from the road its large massing and shed type appearance is not considered to have a significant negative impact on the prevailing character of the wider area.

6.2.4 It will be important to secure a good quality landscaping scheme for the site frontage with the introduction of trees and suitable landscape areas are shown on the proposed plan and can be secured by condition.

6.2.5 In this regard, the proposal is not considered to be detrimental to the character or appearance of the area. Also, it is not considered that the proposal will lead to a significant impact to local businesses and residents. Accordingly, this application is considered to comply with the design objectives and amenity considerations of policy CLP20 of the Chesterfield Borough Local Plan and Chapter 12 of the revised NPPF.

### **6.3 Residential 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. 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 An objection was received from a local resident on Sanforth Street, commenting that the positioning of unit 1 in the original iteration of the scheme would have produced an overbearing impact on the quality of the life of their family and enjoyment of their property. The scheme has since been revised to overcome the concerns with the relationship and proximity to these dwellings and no further responses have been received to re-consultation since units 1 and 2 have been swapped over. Unit 1 has a 12.4m high eaves and 14m roof ridge height, in comparison to unit 2, which has a 6.3m high eaves and 9.8m high ridge height. The amended scheme has led to an eaves height reduction of over 6m closest to the neighbouring residential properties, which is considered to be significant improvement. In terms of the massing/overbearing the scheme is not considering have a significant negative impact to neighbouring residents.

6.3.3 The buildings are to the north of the dwellings on Sanforth Street, which ensures that there aren't any significant issues with loss of daylight/sunlight or overshadowing.

6.3.4 In terms of overshadowing the scheme has full length windows to the southern side to unit 2, it is considered that the upper floor windows are at a height which could lead to overlooking towards the rear gardens and windows of dwellings on Sanforth Street, it is considered that the upper windows could be obscure glazed to ensure that these rooms receive light without impacting the residential amenity of the neighbouring dwellings. Furthermore new landscapint.is proposed alongside the rear of the Sanforth Street gardens which will in due course assist in screening the developmenet

6.3.5 The scheme is considered to be acceptable in terms of residential amenity impacts and is in line with policy CLP14, as well as the revised NPPF.

## **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 would replace a former gym with 6 separate units, which includes a storage business and 5 unknown uses/businesses. The site includes 62 parking spaces on site, which includes 8 disabled and 6 EV charging spaces.

6.4.2 The Transport Statement supplied with the application states that in normal circumstances 72 spaces are required for the storage unit on its own (B8), with potentially 25 spaces for offices and 19 spaces for light industrial uses. This site is however sustainably located where a lower parking provision can be achieved. Furthermore as the uses of the 5 other units on site is unknown/unclear at present it is not possible to gauge any part of the staff parking requirements and customer access to the site. It is unclear how the parking spaces on site are split between staff and customers also.

6.4.3 The site is in a highly sustainable location, as it's on a main road which has a regular bus service and is within 400m of cycle way. It's also adjacent to a large residential area, which provides for customers and staff to walk to the site. It is accepted that many storage customers may be required to visit the site by vehicle though. The impact of vehicles on the site will vary depending on the exact nature of the future businesses though.

6.4.4 The Highways Authority was consulted on the scheme, and after providing several comments they confirmed that they do not object to the scheme.

6.4.5 There is cycle parking on site for 17 bikes, which is considered to be an acceptable level of parking for a development of this scale. Chesterfield Cycle Campaign has supported this development.

6.4.6 The scheme has 6 EV charging parking spaces on site, which is approximately 10% of the 62 parking spaces on site; this number of EV charging units is appropriate for the site, as long as these spaces are available to use for customers when the site is occupied. The proposal is therefore not considered to conflict with the requirements of Policy CLP22 criteria and is acceptable.

## **6.5 Biodiversity/trees**

- 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 main biodiversity features on site are the sections of trees to the western, south-western and north-western sides of the site which are to be largely left intact. It is proposed to add several mature trees and other landscaping on site, which will contribute towards a significant biodiversity gain on site.
- 6.5.3 Derbyshire Wildlife Trust has commented on the scheme and has not objected, noting that *“We note that a potential fox den was located onsite within Tree Line 1. Due to the legal protection afforded to fox under The Wild Mammals (Protection) Act 1996, best practice measures should be implemented to ensure that no impacts to the den occur. Currently, Tree Line 1 is proposed for retention. Contractors should also be aware of the potential presence of hedgehogs in dense vegetation, however the majority is to be retained”*. This advice is noted and will be kept as a note on a decision. They have also requested conditions in relation to nesting birds and biodiversity action plan.
- 6.5.4 The Council’s Tree Officer was consulted on the scheme, and he provided these comments:

*It is proposed to demolish the existing building and construct a self-storage facility including office use and two employment units with associated parking, service areas and landscaping at McCarthy’s Removal and Storage, Sheffield Road.*

*The site is subject to the above mentioned Tree Preservation Order where there is a large group of trees to the west boundary reference G1 and referred to as G8 in the AIA and originally, a small group of trees reference G2 to the frontage off Sheffield Road which have previously been removed.*

#### *Arboricultural Impacts*

*An Arboricultural Impact Assessment (AIA) by JCA Arboricultural & Ecological Consultants Limited has been submitted with the application and it is proposed as stated within the assessment that in order to facilitate the proposed development, it will be necessary to remove T2 Elder, T4 Hawthorn, G5 (mixed group of Goat Willow, Cypress and Cherry) and G6*

*(mixed group of Cypress and Cherry) as shown on the Tree Constraints Plan at appendix 5 of the AIA. Of these T2, T4 and G5 fall into retention category 'C' and G6 falls into retention category 'B'.*

*None of the trees subject to a Tree Preservation Order are to be removed. The trees within G9 require crown lifting to 5.5 metres where they overhang the proposed hard standing, as detailed at Appendix 1 of the AIA and shown in the Arboricultural Implications Plan at Appendix 6.*

### *Landscaping*

*A landscaping scheme reference 17669-1-VL\_L01 REV C is proposed for the site to mitigate against the loss of trees and improve the visual amenity of the site and general area. It is considered that the landscaping is well-designed, appropriate for the setting and likely to provide biodiversity benefits along with an improvement to the visual amenity of the site. Standard and extra heavy standard size trees are proposed along with ornamental shrub and formal hedge planting which include species, quantity and spacings. Soft landscaping specifications and a maintenance programme is also included on the drawing. The landscaping details are therefore acceptable.*

### *Recommendations*

*As recommended at section 4.7 of the AIA, the proposed development if granted consent should be accompanied by an Arboricultural Method Statement (AMS) detailing the specific protection measures necessary for each tree. This should specify the required fencing standard and positions (the creation of the Construction Exclusion Zone), acceptable construction techniques and necessary tree works. A tree protection condition should therefore be attached as detailed below.*

*As previously mentioned, the landscaping scheme proposed is acceptable and should be tied to the scheme if consent is granted to the application 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 landscaping condition below should also be attached if consent is granted.*

- 6.5.5 The proposed development is considered to retain the majority of trees and the existing biodiversity features on site and offers a reasonable landscaping proposal including mature trees to the north and south of the site. It offers a biodiversity net gain on site, and the development is not

objected to by either of the above consultees. This ensures that the proposal is acceptable in relation to policy CLP16 of the Local Plan and the NPPF.

## 6.6 **Land contamination/Land Stability**

6.6.1 The Council's Environmental Health Team was asked to comment on this scheme and have not commented on land contamination on site. A detailed desk top survey has been supplied in relation to the site and this has recommended that a contamination screening is used during any groundworks or geotechnical related investigations. An asbestos survey should also be completed prior to any demolition works. A land contamination condition and demolition method statement (including asbestos) condition should be included in a decision to ensure this issue is considered appropriately.

6.6.2 With regards coal mining legacy on site, a Coal Mining Risk Assessment has been supplied as part of the desk top survey and the Coal Authority has agreed with its findings and not objected to the proposal, subject to conditions. The developers have also been made aware of the potential issues of mine gas and the use of SUDs on site. This ensures that the development is in line with policy CLP14 in regards coal mining legacy.

## 6.7 **Environmental Health**

6.7.1 The proposal is for the siting of 3 buildings on site, which could be for up to 6 separate businesses, 5 of which are unknown and could be for any business within the Use Class E grouping. With regard to noise on site it is considered reasonable to restrict the working hours during construction. The proposed opening hours for all businesses on site is unlimited, with no separation between the businesses on site and it is considered this is unreasonable, as up to 5 of the business uses on site is unknown and of their impacts. As the site is adjacent to two residential streets (Sanforth Street and Greenside Avenue) it is considered that opening hours and the proposed businesses on site need to be considered further, via condition. A noise report has been provided but it is not considered by the Councils EHO that the exact details of noise impacts of the storage business or the unnamed other businesses on site have been addressed/considered sufficiently, especially in regards possible noise impacts between 10.30pm and 7.30am. There is also further clarification required over the noise the shutters and external plant and vehicles related to the functioning of the business. Further clarification is required to ensure this has been suitably

considered, although this needs to be considered separately for the storage business and pre-occupation of the other units on site. The applicant has confirmed that there will be no external plant and for security reasons the units would have standard burgler alarms. The applicant also confirms fork lift trucks would not operate on the site and trolleys will be made available for customers which are substantially quieter than fork lift trucks. McCrathys also propose to use quiet mechanisms to BS standards such that their operation is quiet and that they intend to erect signage to advise customers to be quiet between 10:30pm and 07:30am. The applicant also agrees to the hours restriction on the construction phase.

6.7.2 With regards air pollution, the scheme includes 6 EV charging “passive” parking spaces, which means that the network of cables and power supply are included on site but not the specific socket/charging device; although it can be added later. Due to the unknown users of up to 5 units on site it is accepted why this approach has been taken by the applicant, but unfortunately this approach is not policy compliant, as confirmed by the Council’s Strategic Planning team in their policy comments. Active charging units will be conditioned to be included in the scheme to ensure that the proposal is acceptable in relation to policy CLP14.

6.7.3 Due to the late night opening hours proposed the site will rely on lighting to safely function, as it is adjacent to residential dwellings further details are required to clarify what type of lighting is proposed and their precise locations and this can be considered via condition.

## 6.8 **Drainage/Flooding**

6.8.1 The site is an existing developed site, with a large building on site and is surrounded by a tarmacked car park. The site is not known to be a risk of flooding.

6.8.2 The Lead Local Flood Authority and the Council’s Design Services team have been consulted and commented on the scheme and did not object to the proposal. Yorkshire Water has also been consulted, they did not object but requested the inclusion of conditions in any decision in regards more information of surface water; these were considered to be acceptable. This ensures that the scheme is acceptable in this regard.

## 6.9 **Designing Out Crime**



6.9.1 Derbyshire Constabulary has been consulted on the scheme. In the original iteration of the scheme they requested amendments in regard the proposed fencing of the scheme. The scheme has been revised since their original comments and they now have no objection to the scheme.

## **7.0 REPRESENTATIONS**

7.1 1 objection received in regards the overbearing nature of the building to the rear of the houses on Sanforth Street.

7.2 Officer comment – These comments have been considered in the residential amenity chapter above.

## **8.0 HUMAN RIGHTS ACT 1998**

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

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

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

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

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 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 The proposed development is considered to sufficiently reflect the architectural characteristics and form of the existing site and surrounding area. Furthermore, it is not considered that the development would result in significant injury to the amenity of nearby businesses or residents. It is not considered to lead to a negative impact upon highway safety of the local area. As such, this application is considered to comply with the requirements of policies CLP2, CLP14, CLP16, CLP20 and CLP22 of the Chesterfield Borough Local Plan 2018-2035 and Chapter 12 of the revised National Planning Policy Framework, subject to condition.

## **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:

- Site Location Plan,
- Existing Site Plan,
- Proposed Boundary Treatments,
- Proposed Site Sections (Rev C),
- Vehicle tracking swept Path analysis,
- Proposed Site Plan (Rev D),
- Landscape Plan (Rev C),
- Proposed Unit 1 GA Plan (Rev C),
- Proposed Unit 1 Roof Plan (Rev C),
- Proposed Unit 1 Sections (Rev C),
- Proposed Unit 1 First and Third Flood plans (Rev C),
- Proposed Unit 1 Second Floor plans (Rev C),
- Proposed Unit 2 GA Layout (Rev B),
- Proposed Unit 2 Elevations and Sections (Rev C),
- Proposed Unit 3 Elevations and Sections (Rev C),
- Proposed Unit 3 GA Layout,
- Flood Risk Assessment (revised document submitted 17/02/23),

- Arboricultural Impact Assessment (Revised document submitted 21/02/23),
  - Ecological Impact Assessment (Revised document submitted 09/02/23),
  - Noise Assessment (revised document submitted 14/02/23)
  - Transport Statement (Rev 2);
- with the exception of any approved non-material amendment.

**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. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting these Orders with or without modifications), the premises shall be used for offices, light industrial, research and development, and storage and distribution uses only, and for no other purpose within class E.

**Reason** - To manage the future use of developments, including the restriction of future permitted development rights where these are appropriate to ensuring the viability and vitality of employment areas in the future, in relation to policy CLP6 of Chesterfield Local Plan and the NPPF, and to ensure the development is not inappropriately subject to the Community Infrastructure Levy (CIL).

4. 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.

5. Prior to the development hereby permitted being occupied/brought into use the southern facing windows on the first floor of unit 2 shall be installed with obscure glazing and with no opening part being less than 1.7 metres above the floor level. The obscure glazing shall be obscured to a minimum of Pilkington - Privacy Level 3 or an equivalent product. 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 policy CLP14.

6. Prior to the commencement of the development hereby approved (including demolition 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:

- a) Location and installation of services/ utilities/ drainage which may affect the retained trees.
- b) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- c) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- d) 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
- 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.

7. 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. Any new tree(s) that die(s), are/is removed or 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. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

**Reason** – In regard policy CLP16 and the protection of biodiversity on site.

8. Prior to first occupation, the proposed respective parking areas to each unit shall be provided in accordance with the application drawing such that vehicles can be parked. Once provided, the space shall be retained free from any impediment to its designated use for the life of the development.

Reason – In the interests of highway safety and policies CLP20 and CLP22.

9. No development shall take place until a construction management plan has been submitted to and been approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan/statement shall provide for:
  - i. Parking of vehicles for site operatives and visitors,
  - ii. storage of plant and materials and site accommodation,
  - iii. details/method of construction/demolition of buildings on site.
  - iv. method of prevention of mud/debris being carried onto the public highway,
  - v. proposed temporary traffic management/restrictions,
  - vi. arrangements for loading/unloading and turning vehicles within the site,
  - vii. any roadside fencing/hoarding, and

Reason – In the interests of highway safety and policies CLP20 and CLP22.

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

Reason - In regard policy CLP16 and the protection of biodiversity on site.

11. 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. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- integral universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022, or equivalent external boxes suitable for building construction and/or trees.
  - integral or external bat boxes suitable for buildings or trees.
  - insect bricks / boxes.
  - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs

Reason - In regard policy CLP16 and biodiversity on site.

12. No development shall commence until;
- a) a scheme of intrusive site 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 fully establish the presence and / or otherwise of any coal mining legacy affecting the application site, in regard policy CLP14.

13. 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 - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site, in regard policy CLP14.

14. 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, in regard policy CLP13.

15. 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.

**Reason** - To prevent pollution of the aquatic environment and protect the public sewer network, in regard policy CLP13.

16. 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 infiltration or watercourse are not reasonably practical;
  - b) evidence of existing positive 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 discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage)

17. Prior to installation, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing the proposed lighting scheme.

All works shall be fully implemented in accordance with the approved scheme before the use commences.

**Reason** - To ensure that the development does not appear as an unduly prominent feature in the area and in the interests of amenity in accordance with policy CLP14.

18. Prior to any roller shutter being installed on site details of the shutter demonstrating a 'quiet' mechanism shall be submitted to and agreed in writing by the LPA. Works shall be completed in accordance with the agreed details.

**Reason** – To ensure that the features are not unduly loud and lead to a negative impact to the residents at surrounding dwellings, in regard policy CLP14.

19. 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 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.



20. 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.

**Reason** – This is a pre commencement condition in order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Core Strategy.

21. The development shall include 6 Non-residential charging points to be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. 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 first occupation on site and shall be maintained for the life of the approved development.

**Reason** - In the interests of air pollution and policy CLP14.

22. Prior to any external plant being installed on site details of this shall be submitted to and agreed in writing by the LPA. Works shall be completed in accordance with the agreed details.

**Reason** – In the interests of the residential amenity of the surrounding residents and policy CLP14.

23. The site shall be landscaped and maintained strictly in accordance with the approved details provided in the Landscape Plan (drawing 17669-1-VL\_L01 Rev C) in the first planting season after completion or first occupation of the development, whichever is the sooner.

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

**Reason** – In the interests of visual amenity and biodiversity, in regard policies CLP16 and CLP20.

25. No development shall take place including any works of demolition until demolition method statement has been submitted to and been approved

in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the demolition periods.

The statement shall provide for but not necessarily be restricted to the following as appropriate.

- Parking of vehicles of site operatives and visitors
- Routes for construction traffic, including abnormal loads/cranes etc.
- Hours of operation
- Method of prevention of debris being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Arrangements for turning vehicles
- Dust suppression to neighbouring residents
- Limiting impact of noise surrounding dwellings
- Dealing safely with asbestos on site
- Any other issue related to the safe demolition of the existing buildings

**Reason** - In the interests of highway and pedestrian safety and policies CLP20 and CLP22.

26. The cycle parking stands in the Proposed Site Plan shall adhere to the standard in the Department for Transport's Cycle Infrastructure Design Local Transport Note 1/20, as specified in chapter 11.

**Reason** – in the interests of highway safety and policy CLP22.

27. Prior to the commencement of the development, a statement shall be submitted to and agreed in writing by the Local Planning Authority setting out how the development will address matters of climate change through the construction and occupation stages of the development.

Reason: To ensure that climate matters are fully considered in the construction and occupation of the dwellings in line with policy CLP20 of the Adopted Local Plan.

### **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. We note that a potential fox den was located onsite within Tree Line 1. Due to the legal protection afforded to fox under The Wild Mammals (Protection) Act 1996, best practice measures should be implemented to ensure that no impacts to the den occur. Currently, Tree Line 1 is proposed for retention. Contractors should also be aware of the potential presence of hedgehogs in dense vegetation, however the majority is to be retained.
3. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential 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.
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. 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, developers should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.
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.

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# Agenda Item 5

<b>COMMITTEE/SUB</b>	Planning Committee
<b>DATE OF MEETING</b>	13 <sup>th</sup> March 2023
<b>TITLE</b>	DELEGATION
<b>PUBLICITY</b>	For Publication
<b>CONTENTS</b>	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
<b>RECOMMENDATIONS</b>	Not applicable
<b>LIST OF BACKGROUND PAPERS</b>	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
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**Delegated List**  
**Planning Applications**

<b>Code No FileNo</b>	<b>Ward</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CHE/21/00735/DOC	Brimington South	Discharge of planning condition 3 ( Surface Water Drainage Strategy) of CHE/20/00869/REM (Approval of reserved matters for 150 dwellings of CHE/18/00532/OUT)  At Land To The North Of Northmoor View Brimington  For Vistry (Yorkshire) Ltd	REF	16/02/2023
CHE/21/00845/DOC	Brimington South	Discharge of planning condition 16 of CHE/18/00532/OUT  At Land To The North Of Northmoor View Brimington  For Cathy Brown	DPC	15/02/2023
CHE/22/00137/FUL	Holmebrook	Demolition of existing take-away and construction of 3 one bedroom apartments  At 47B Chester Street Chesterfield S40 1DN For Mr and Mrs Long	REF	15/02/2023
CHE/22/00252/FUL	Old Whittington	Expansion of current car valet facilities to include fit out of parts storage into existing valet building, with added welfare and washroom facilities and office space. Construction of a new 4 car valet building within existing site to cope with expansion of facilities. Proposed shipping container on site.  At Vertu Motors Pdi Centre 128 Station Road Whittington Moor S41 9EU For Vertu Motors plc	CP	20/02/2023

<b>Code No FileNo</b>	<b>Ward</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CHE/22/00585/FUL	Hollingwood And Inkersall	Erection of a drive-thru cafe and hot food unit including details of access At Land At Aaron Street Duckmanton Chesterfield For Chicken Villas Limited	CP	28/02/2023
CHE/22/00597/FUL	Hollingwood And Inkersall	Building extension to include warehouse and 3 storeys of office accommodation  At Grangers International Enterprise Way Duckmanton S44 5FD  For Ms Jacquie Storer	CP	16/02/2023
CHE/22/00598/FUL	Old Whittington	Demolition of existing stone outbuilding and erection of a detached double garage with a room above in the roof space (revised drawings received 07.01.23 and 10.01.23)  At 115 High Street Old Whittington Chesterfield S41 9LB For Mr Lee Fletcher	CP	13/02/2023
CHE/22/00654/FUL	Brockwell	Alterations to dwelling with 2 storey side extension, cladding and new chimney. Raised hardstanding and ramps for access and erection of car port. (revised drawings received 13/12/22, description amended 15/12/22)  At 20 Avondale Road Chesterfield S40 4TF For Mr and Mrs Scotford	REF	15/02/2023



Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/22/00761/FUL	Barrow Hill And New Whittington	Roof height increase to create first floor rooms with front and rear dormers and single storey rear extension (revised plans and description 03.02.23)  At 28 Glasshouse Lane New Whittington S43 2DQ  For Mrs Jenny Bacon	CP	28/02/2023
CHE/22/00769/DEM	Old Whittington	Demolition of existing building. At Old Whittington Miners Welfare Club Station Lane Old Whittington Chesterfield S41 9NL For Meadow Lane Services Limited	PANR	28/02/2023
CHE/22/00779/DOC	Walton	Discharge of condition 3 (materials) of CHE/19/00535/FUL- Erection of a conservatory At 1 Fenland Way Chesterfield S40 3RH  For Mr J R Richmond	DPC	16/02/2023
CHE/22/00804/FUL	St Leonards	Refurbishment of offices and workshops and creation of an independent access to the office space  At Zero Workshop New Street Chesterfield S40 2JZ For Miss Georgina Templeman	CP	28/02/2023
CHE/22/00831/DOC	Linacre	Discharge of condition 7 (biodiversity) of CHE/22/00427/FUL- Change of use from commercial to residential. Cladding of exterior walls At 43 Newbold Village Newbold Road Chesterfield S41 8RJ  For Mr Darren Gregory	DPC	09/02/2023

<b>Code No FileNo</b>	<b>Ward</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CHE/22/00835/FUL	Walton	Rear extension and decking At 86 Walton Road Walton Chesterfield S40 3BY  For Dr and Mrs Mathew	CP	10/02/2023
CHE/22/00840/ADV	Holmebrook	Illuminated and none illuminated signage At Rose and Crown 104 Old Road Chesterfield S40 2QT  For Everards Of Leicestershire	CP	15/02/2023
CHE/22/00846/DOC	Lowgates And Woodthorpe	Discharge of condition 16 (External lighting scheme) of application CHE/13/00675/OUT (as amended by CHE/20/00221/NMA)-Redevelopment of land for employment uses (Use Classes B1, B2 and B8) At Land Accessed From Farndale Road Staveley Chesterfield For Devonshire Property (B2B) Limited	DPC	15/02/2023
CHE/22/00847/DOC	Lowgates And Woodthorpe	Discharge of condition 2 (Details of electric charging vehicle charging point) of application CHE/20/00653/REM (As amended by CHE/21/00777/NMA)- Approval of reserved matters of CHE/13/00675/OUT - Redevelopment of land for employment uses (Use Classes B1, B2 and B8)  At Land Accessed From Farndale Road Staveley For Mr Andrew Byrne	DPC	16/02/2023

<b>Code No FileNo</b>	<b>Ward</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CHE/22/00851/FUL	Walton	Single storey rear extension and steps to patio At 1 Davian Way Walton Chesterfield S40 3JF For Mr and Mrs Stannard	CP	16/02/2023
CHE/23/00001/FUL	Old Whittington	Erection of a two storey house and associated works At 7 Ashcroft Drive Old Whittington Chesterfield S41 9NU  For Mr Chris Eaton	REF	23/02/2023
CHE/23/00019/DOC	Moor	Discharge of condition 5 (Details of proposed extraction plant) of CHE/21/00752/FUL At Arnold Clark Motorstore Meltham Lane Chesterfield S41 7LG  For Arnold Clark Automobiles	DPC	20/02/2023
CHE/23/00021/DOC	Moor	Discharge of conditions 19 (landscaping details) and 21 (lighting details) of CHE/19/00775/FUL- Erection of coffee shop drive-thru restuarant and associated works At Arnold Clark Motorstore Meltham Lane Chesterfield S41 7LG  For Arnold Clark Automobiles	DPC	16/02/2023

<b>Code No FileNo</b>	<b>Ward</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
CHE/23/00053/DOC	West	<p>Discharge of condition 28 (Carbon release scheme) of application CHE/22/00511/FUL- Erection of a new 3 bedroom bungalow with attached garage and associated landscaping works</p> <p>At Land West Of Wash House Lane Wash House Lane Chesterfield</p> <p>For Mr and Mrs Allenby</p>	DPC	15/02/2023
CHE/23/00055/TPD	Brockwell	<p>Single storey rear extension At 16 Newbold Drive Newbold Chesterfield S41 7AP</p> <p>For Mr and Mrs Curnyn</p>	PANR	22/02/2023
CHE/23/00062/DOC	Old Whittington	<p>Discharge of condition 32 (Compliance with building regulations relating to internal heating and solar PV) of application CHE/21/00800/FUL- Demolition of 1 no. existing dwellinghouse and outbuildings, and construction of 33 no. 2, 3 &amp; 4 bed dwellinghouses and associated access, parking and gardens</p> <p>At Adjacent 929 Sheffield Road Sheepbridge Chesterfield S41 9EJ</p> <p>For Vistry Partnership Yorkshire</p>	DPC	16/02/2023
CHE/23/00075/CLO	Hollingwood And Inkersall	<p>Certificate of Lawfulness for a proposed single storey rear extension At 9 Blue Lodge Close Inkersall Chesterfield S43 3GF For Mr and Mrs Thompson</p>	GR	16/02/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00077/NMA	Linacre	<p>Non material amendment to application CHE/21/00707/FUL- Erection of 301 dwellings including the provision of public open space, landscaping and associated infrastructure and works- To plot swap between Plots 112 and 158</p> <p>At Land To The East Of Linacre Road Holme Hall Chesterfield For Tilia Homes Ltd</p>	CPNMAZ	16/02/2023
CHE/23/00082/TPO	Brockwell	<p>T30 Hawthorn - fell as in decline due to previous suppression of growth giving a veyr low amenity value. Replace with ornamental cherry (if acceptable). T26 Maple - clean crown to remove epicormic growth, reduce overcrowding, and improve health. T31 Sycamore - Removal of ivy from tree to improve growth. T32 and T33 Beech - To cut back over hanging branches A) to increase height/clearance over car parking area of ex. NEDDC, B) to giv 2m clearance to avenue house surgery (Tennyson Avenue)</p> <p>At Hunters Walk Chesterfield For Limetree Park No 1 Management Company</p>	CP	09/02/2023

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/23/00089/TPO	St Leonards	<p>Maintenance and pruning works to trees within W1 and W2 on attached sketch plan.</p> <p>This is to include removal of dead trees, pruning back from structures, footpaths and boundaries to ensure clearance of no less than 1m from and up to 2.5m high. Pruning back of overhanging branches to include adjacent properties, street furniture, utilities installations and streetlighting.</p> <p>At Wain Avenue Chesterfield</p> <p>For Mr Gary McCarthy</p>	CP	28/02/2023

## *Delegated List - Planning Applications*

### Key to Decisions

<b>Code</b>	<b>Description</b>
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

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# Agenda Item 6

<b>COMMITTEE/SUB</b>	Planning Committee
<b>DATE OF MEETING</b>	13 <sup>th</sup> March 2023
<b>TITLE</b>	DELEGATION
<b>PUBLICITY</b>	For Publication
<b>CONTENTS</b>	Items approved by the Development Management and Conservation Manager under the following Delegation references:-  Felling and Pruning of Trees P100D, P120D, P130D
<b>RECOMMENDATIONS</b>	Not applicable
<b>LIST OF BACKGROUND PAPERS</b>	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
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**SECTION 1****APPLICATION TO FELL OR PRUNE TREES**

<b><u>CODE NO</u></b>	<b><u>DESCRIPTION OF PROPOSAL</u></b>	<b><u>TERMS OF DECISION</u></b>
CHE/23/00082/TPO TPO 4901.261 09/02/23	The felling of one Hawthorn reference T30 which is in poor condition and the pruning of four trees reference T26 Maple, T31 Sycamore and T33 & T34 Beech on the Order map at Hunters Walk off Saltergate.	Consent is granted to the felling of one Hawthorn tree with a condition to plant one new Cherry tree as a replacement in the same location and the crown cleaning of 4 trees to remove dead wood and any damaged branches and the crown lifting of 2 Beech trees by 5.2m to clear the former NEDDC car park and roadway to Hunters Walk.
CHE/23/00089/TPO TPO 4901.262 28/02/23	The felling of dead Elm trees and the pruning of trees to clear structures, footpaths and boundaries within W1 & W2 on the Order Map and which are situated off Wain Avenue and the River Rother, Piccadilly.	Consent is granted to the felling of dead Elm trees within W1 & W2 and potentially problematic small self-set trees and shrubs within 1 metres of footpaths/cycle routes and property boundaries. The duty to plant replacement trees has been dispensed with on this occasion due to the natural regeneration and more dominant trees along the River corridor with no loss of amenity.  Consent is also granted to crown lift trees over the public highway, footpaths and cycle route and to reduce branches growing towards properties, structures and utility installations.



**SECTION 2****NOTIFICATION OF INTENT TO AFFECT TREES IN A CONSERVATION AREA**

<b><u>CONTENTS OF NOTICE</u></b>	<b><u>SUMMARY OF CONSIDERATIONS</u></b>	<b><u>TERMS OF DECISION</u></b>	<b><u>DATE OF DECISION</u></b>
CHE/23/00046/CA The pruning of one Cherry tree in the grounds of 95a High Street, Old Whittington.  Page 153	The trees are within the Old Whittington Conservation Area and the applicant wishes to prune the tree because it is close to the neighbouring property and lamp stand.	Agreement to the pruning of one Cherry tree to crown reduce to leave a 15 metres high tree with a crown spread of 8 metres to previous reduction points. The pruning of the tree will have no adverse effect on the character and amenity of the area.	07/02/23

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## APPEALS REPORT

**MEETING:** PLANNING COMMITTEE  
**DATE:** 13<sup>th</sup> March 2023  
**REPORT BY:** DEVELOPMENT MANAGEMENT AND  
CONSERVATION MANAGER

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### 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

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#### 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.

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**APPEALS**

<b><u>FILE NO.</u></b>	<b><u>WARD</u></b>	<b><u>APPELLANT</u></b>	<b><u>CASE</u></b>	<b><u>MEMBER OFFICER</u></b>	<b><u>DATE REC</u></b>	<b><u>TYPE AND DATE</u></b>	<b><u>DECISION AND DATE</u></b>
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)	Dismissed 28/02/23 see appendix A
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	
2/4431	Holmebrook ward	Claire Hancock	CHE/21/00171/FUL - Pair dwellings on land at 33 Boythorpe Avenue Refusal	Planning Committee against officer advice	28/09/22	Written Reps	
2/156	Lowgates and Woodthorpe ward	Miss S McManus	CHE/22/00742/FUL – extension at 26 Netherthorpe Close - Refusal	Officer delegation	16/01/23	Written Reps	
2/2518	West ward	Mr J Simms	CHE/22/00712/FUL – fencing at 34 Miriam Avenue - Refusal	Officer delegation	12/01/23	Written Reps	
2/621	Barrow Hill and New Whittington ward	Mr P Rawson	CHE/22/00592/OUT 2 dwellings on land at 66 South Street North – None Determination	Officer delegation	9/2/23	Written Reps	
2/2581	Middlecroft & Poolsbrook ward	Mr T Singh	CHE/21/00381/FUL Extension at 26A Circular Road – Refusal	Officer delegation	23/2/23	Written Reps	
2/705	Brockwell ward	Mr D Hopkinson	CHE/22/00276/RET Retention of fencing and retail sales at 194-196 Newbold Road - Refusal	Planning Committee against officer advice	28/02/23	Written Reps	

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## Appendix A

### Appeal by Dr C Martin

#### Felling Protected Tree at Lodge Cottage, 2 Somersall Lane, Chesterfield.

#### CHE/21/00527/TPO

1. Planning permission was refused on 31<sup>st</sup> August 2021 for felling a protected Lime tree at 2 Somersall Lane for the following reasons:
  - Tree not unreasonably burdensome;
  - No evidence of damage to property;
  - The tree is in sound condition and has good amenity value.
  
2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed. The main issues were:
  - i) whether the proposed felling would preserve the Grade II listed Lodge and its setting,
  - ii) whether it would preserve or enhance the character or appearance of the Somersall Conservation Area (SCA), and
  - iii) whether sufficient justification for the felling has been given.
  
3. Number 2 Somersall Lane is one of a pair of early 19th century lodges that marked the entrance to the drive of Somersall Hall when it was the focal point of a landed estate on the western edges of Chesterfield. Each lodge is a single storey stucco building with a hipped stone slate roof and central stack. The inspector concluded that No 2's significance arises from its intact historic fabric, its modest scale and appearance at the junction of the former drive and Chatsworth Road, and its spatial relationship with the lodge located on the opposing corner.
  
4. The extents of the SCA include the full length of the drive from the lodges, the extended Somersall Hall which dates from the 17th century, and areas of later and very low density detached housing on the western side of Somersall Lane. One of the

SCA's key characteristics appears to be its mature tree cover, as there are large and established trees lining both sides of the former drive and also populating nearby gardens. The inspector concluded that the significance of the SCA is derived from its low density building pattern, the historic fabric of the Hall and its gate houses, and the verdant character afforded by mature trees.

5. There is also a significant presence of mature trees within the street scene on the southern side of Chatsworth Road in the vicinity of the junction with Somersall Lane. However, the appeal tree is relatively isolated and is viewed as a single specimen. It stands around 18 metres tall, with a reasonably symmetrical and fairly narrow canopy above a forked stem, and although there is evidence of former crown lifting, it has retained an attractive and natural form. It is very close to No 2's boundary with Chatsworth Road and section of the stone boundary wall has had to be removed to accommodate its growth.
6. The inspector concluded that the Lime tree is highly visible in the street scene and makes a positive contribution to the SCA and the street scene, both individually and collectively. He gave this contribution moderate weight with regard to the SCA, and visual amenity more generally in the wider area. He commented that there was nothing before him to indicate that the Lime tree has particular value with regard to the significance of No 2 or its setting.
7. The application states that the Lime tree is too close to the house and that the concerns of the owner are not outweighed by its amenity value, which it is argued, is relatively low. The form also states that there are no concerns that the tree might fall or break, or that it is causing damage to property. It was accompanied by a report from an arboriculturalist who had examined the tree in 2010. The 2010 report concluded that the tree was too close to the building and that it would be sensible to remove it. However, the report also states that the report's author was unable to find any evidence of the tree disturbing No 2's fabric. Although small cracks were noted in the outbuilding in 2021, there was nothing that justified further investigation.

8. The inspector appreciated that best practice would preclude planting a tree of this size this close to a building. However, as noted above, there is no evidence that the tree is causing damage to No 2 or that it is likely to do so in the future. Nor is it clear why the tree is causing trepidation to No 2's current occupier, who has recently moved into the premises and who would have been aware of its proximity and size at the time. Moreover, there was nothing before the inspector to indicate that the tree is diseased or lacks structural integrity.
9. Although the inspector acknowledged that mature trees in proximity to dwellings can be inconvenient, it is often the presence of such trees that make an area particularly attractive. Furthermore, although in this case inconvenience and trepidation are referred to, no further details are given.
10. Consequently, the inspector was unable to conclude that there are sufficient reasons of such weight to warrant felling a tree which makes a positive contribution to the SCA and the street scene generally. Paragraph 131 of the National Planning Policy Framework which states that existing trees are to be retained wherever possible, reinforced the inspectors reasoning in this regard.

*Other matters*

11. One of the grounds for appeal is that the Council had not followed government guidance, had not undertaken an amenity valuation and had misused the TEMPO appraisal system. These reasons were not advanced at application and as the appellant had opted for the fast track procedure they were not taken into account at appeal. However the Council forwarded a copy of its TEMPO evaluation, dated August 2021. The appellant advanced the argument that the tree is clearly outgrowing its context which would reduce the overall score. However, given the appeal tree's high and relatively narrow canopy, and on the basis of what was before the inspector he disagrees that the Lime tree had clearly outgrown its context. The inspector appreciated that there might be more up to date versions of TEMPO but these were not before him and in any case, his reasoning was based on his observations at the visit. Furthermore, the inspector had to proceed on the basis that the tree is protected, as to do otherwise is outside the remit of the appeal process.

12. The appellant suggested that *Acer rubrum* could be planted in a different part of No 2's garden as a replacement if the appeal was to be allowed. However, in the inspectors experience this is a fast-growing tree, which would ultimately reach a similar size to that of the appeal tree. Moreover, No 2 has a very modest garden and it is very difficult to see where a tree of stature could be located without future pressure arising in terms of overshadowing, oversailing or proximity to the dwelling and as such, the inspector gave this suggestion very little weight.

### **Conclusion**

13. The Lime tree makes a moderately positive contribution to the character and appearance of the SCA and the wider area, and there is insufficient justification for felling. The appeal is dismissed.

# FOR PUBLICATION Agenda Item 8

## ENFORCEMENT REPORT

**MEETING:** PLANNING COMMITTEE  
**DATE:** 13<sup>TH</sup> MARCH 2023  
**REPORT BY:** HEAD OF REGULATORY LAW  
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER  
**WARD:** As listed in the report

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### **FOR PUBLICATION**

TITLE: Non-exempt papers (if any) on relevant files

### **BACKGROUND PAPERS**

LOCATION: LEGAL SERVICES

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#### **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](mailto:gerard.rogers@chesterfield.gov.uk)

# ENFORCEMENT REPORT

Enforcements currently Authorised: 11

03 March 2023

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	<small>update last update</small>	Ward
<b>Breach of Condition Notice</b>		<i>Total currently Authorised: 1</i>			<i>Authorised to Issue Average: 540 days</i>				
York Street	2 <small>1,258</small>	23/09/19 <small>1,258</small> balcony, canopy and french door	17/00800/FUL	16/03/21 <small>540</small>	16/03/21 <small>718</small>	16/04/21 <small>687</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
<b>Enforcement Notice</b>		<i>Total currently Authorised: 7</i>			<i>Authorised to Issue Average: 31 days</i>				
Chester Street	94 <small>12</small>	20/02/23 <small>12</small> wooden play structure					removal within 28 days	<input type="checkbox"/>	B
Page 164 Markham Road	Markham House 5,493	18/02/08 <small>5,493</small> storage of commercial vehicles		20/03/08 <small>31</small>	18/04/08 <small>5433</small>	20/10/08 <small>5248</small>	Complied by 2009. Unauthorised use has started again. Prosecute - awaiting instructions.	<input type="checkbox"/> <small>14/11/19</small>	HI
Newbold Road	194-196 - former Hardy's Site 33	30/01/23 <small>33</small> frontage fencing and forecourt retail sales					Awaiting instructions	<input type="checkbox"/> <small>30/01/23</small>	N



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
Old Hall Road	76-88	30/08/22 186	shipping containers					28 days for removal, seeking voluntary compliance. Complied without formal action.	<input checked="" type="checkbox"/> 28/02/23	
Park Hall Avenue	2	12/12/22 82	timber fencing and stone columns on frontage					Awaiting instructions	<input type="checkbox"/> 21/12/22	Wa
Pottery Lane	10	18/07/22 229	Storage of vehicles					Instructed	<input type="checkbox"/> 20/10/22	Mo
York Street	2	09/10/17 1,972	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"/> 19/12/18	Ha

## Section 215 Amenity Notice

Total currently Authorised: 3 Authorised to Issue Average: days

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
Edinburgh Road	12	10/10/22 <i>145</i>	unroadworthy vehicle, trailer and miscellaneous building materials etc.					Did not comply within 3 months given. Instructed.	<input type="checkbox"/> <i>28/10/22</i>	SH
Highfield Road	80	05/10/20 <i>880</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>880</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

Page 166

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