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File No: CHE/18/00337/COU  
Plot No: 2/226

### **ITEM 3**

## **CHANGE OF USE FROM RESIDENTIAL TO COMMERCIAL ON THE GROUND FLOOR, WITH A FLAT AT FIRST FLOOR, AND A SINGLE STOREY REAR EXTENSION AT 144 CHATSWORTH ROAD, CHESTERFIELD**

### **1.0 CONSULTATIONS**

Highways DCC	No objection, subject to 2 parking spaces supplied and the provision of bin storage.
Ward Members	No comments received.
Strategic Planning	No objection in principle, but comments given prior to inclusion of rear extension.
Conservation Officer	No objections.
Environmental Services	No comments
Neighbours	1 letter of representation received

1.1 The proposal was publicised by neighbour letters.

### **2.0 SITE LOCATION AND DESCRIPTION**

2.1 The application building is currently vacant, but was previously occupied as a dwelling house. It is part of a terrace of buildings to the south side of Chatsworth Road and which is within the Chatsworth Road District Centre and Conservation Area. The site has residential units on both sides, but to the east and west of the overall area there are retail units. Some of the retail units have been conversions of what were previously residential units and which involved the removal of their front garden and walls with the public footpath situated up to the front of the retail units.

2.2 The application site dwelling is a terraced house with a small garden and dwarf stone wall to the front. Other than the retail units on the corner of Chatsworth Road and Hipper Street the dwellings to the west of the

junction with Hipper Street are all of a similar design as the application site, in terms of their gardens and walls, although the quality of the frontage areas varies.

- 2.3 The entrance into the front of the site is via a shared access footpath, with this leading down an alleyway and to the front doors for no.142 and 144. The rear gardens of the dwellings in this area are a mix of outbuildings, overgrown landscaping, parking and which is accessed via a private road that is in poor condition to the rear of the site.
- 2.4 An extension has been constructed to the rear of no.138/140 in the past, but after searching the Council's records this does not appear to have been carried out in the last 30 years. Also, this unit appears to have been a retail unit for a lengthy period of time and which also has a flat above it.



- 2.5 A 6m rear extension has previously been given permission under a larger householder extension application however this has not been built. This extension was related to a dwelling and not a business use. On the basis that no objections were received from the consultation with the neighbours it was confirmed under this process that the extension was permitted development. No assessment of the impacts on the

neighbours was required under this larger home extension procedure. Under this current application the extension is assessed for the proposed business use and its impact on neighbouring residents is a material planning consideration.

### **3.0 SITE HISTORY**

- 3.1 CHE/17/00845/TPD - Single storey flat roof extension to rear extending 6m – Prior Approval Not Required – 03/01/18. Works not completed.

### **4.0 THE PROPOSAL**

- 4.1 The applicant proposes a change of use from the dwelling unit to a retail unit at ground floor level and a flat at 1<sup>st</sup> floor level. This includes the building of a 6m deep ground floor rear extension to the property. The rear extension would have a flat roof and be the full width of the property and would be constructed in matching materials of red reclaimed brick. It would be approximately 3.5m wide and approximately 2.8m in height and would not have any side windows. A set of double doors are proposed in the rear of the extension.
- 4.2 It is proposed for the site to have two off-street parking spaces, with one for the residential unit and one for the business and which are to be located within the rear area accessed from the private road.
- 4.3 The opening hours for the business are referred to as from 8.30 am to 6.30pm, with no parking spaces provided from customers. It is presumed that customers would utilise existing on-street parking bays.
- 4.4 The application includes no detail of any external changes to the front of the unit however the floor plan shows the introduction of a wider window. No details are provided regarding the front garden area, positioning of signs or inclusion of a shop frontage.
- 4.5 The proposal would also include a one bedroom flat on the 1<sup>st</sup> floor and this would have a lounge/kitchen, bedroom and bathroom.
- 4.6 The application has been amended on several occasions. The red line was altered to exclude land not owned by the applicant, the description was changed to include the rear extension and drawings were provided to show elevations for the rear extension. Also, additional information was sought in terms of bin storage, opening hours and parking.

## **5.0 CONSIDERATIONS**

### **The Development Plan**

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 saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Local Plan Core Strategy.

### **5.2 Chesterfield Local Plan: Core Strategy 2011 -2031 ('Core Strategy')**

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS4 Infrastructure Delivery
- CS8 Environmental Quality
- CS15 Vitality and Viability of Centres
- CS16 Retail
- CS18 Design
- CS19 Historic Environment
- CS20 Influencing the Demand for Travel
- PS2 Chatsworth Road Corridor

### **National Planning Policies**

5.3 The Sections of the revised National Planning Policy Framework (NPPF 2018) considered relevant to the decision are;

- 6. Building a Strong, Competitive Economy
- 7. Ensuring the Vitality of Town Centres
- 9. Promoting sustainable transport
- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

5.4 The key Issues in this case are:

- 1 Principle Of Development**
- 2 Design and Visual Amenity/ Heritage**
- 3 Residential Amenity**
- 4 Highway Safety and Parking Provision**
- 5 Environmental Health**

## **1. Principle of Development**

- 5.5 Policy CS1 of the adopted Core Strategy states that *“the overall approach to growth will be to concentrate new development within walking and cycling distance of centres”*, within this context the proposal is within a local centre and so the site can be regarded as sustainably located in this respect.
- 5.6 Policy CS2 states that *“all developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts”*. In this context the proposal is not considered to be acceptable, and this issue is considered in more detail later in the report.
- 5.7 Within policy CS15 it states that *“the council will support the role of the town, district, local service centres and local centres in providing shops and local services in safe, accessible and sustainable locations. New development should make a positive contribution to the centre’s viability and vitality and be of an appropriate scale”*. The proposal reflects the aspirations of this policy and is therefore generally in line with its requirements.
- 5.8 The proposal also includes a one bedroom flat at first floor and the principle of the conversion of the dwelling to a shop and to include a flat adds to the mix of unit types in the district area.
- 5.9 The application seeks the conversion of an existing dwelling unit into a commercial unit and flat (A1/C3). The existing dwelling sits within the Chatsworth Road District Centre boundary as shown in the Regulation 22 (1) b Submission Policies Map, however it is not within the revised boundary of the district centre as shown within the draft emerging Local Plan proposals map (published January 2017). It is the case however that until the revised plan is adopted then the existing adopted plan carries the full weight and should be used to make planning decisions. Within this location the conversion from residential to commercial is considered to be acceptable as the Council’s Spatial Strategy (CS1) seeks to concentrate development around centres with sustainable transport links. Core Strategy policy CS15 seeks to encourage the vitality and viability of the Borough’s centres and as the proposed change of use will enhance the retail function of the District Centre and contribute to a safe and well-used environment the principle of development is acceptable.

5.10 As policy CS15 permits the use of upper floors for C3 use, the residential use on the first floor (which constitutes retention of the previous use) is considered to be appropriate in this case.

## **2. Design and Visual Amenity / Heritage**

5.11 Policy CS18 states that *“all development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. Development will be expected to enrich the quality of existing places, respect the character, form and setting of the site and surrounding area by virtue of its function. It should also provide adequate and safe vehicle access and parking and have an acceptable impact on the amenity of users and neighbours”*.

5.12 The proposal fronts the Chatsworth Road corridor and is within the Conservation Area. It is a terraced house, with a small dwarf wall and garden to the front however the property is of no particular architectural merit and does not have any particular architectural features. The site is within a collection of similar altered houses that form a row of terraced houses fronting the road, which all have small front gardens and dwarf walls/railings. This is part of the defined character of this part of the overall conservation area. Although policy CS15 supports the development of retail units within district centres, this is not at any cost. Such developments are required to be designed appropriately and to not negatively impact on local character and distinctiveness.

5.13 It is not the case that the proposal for a shop within this location would unequivocally lead to a development that negatively impacts on the local area and conservation area as a whole, but that whatever is developed needs to be undertaken in a sympathetic manner. The current application provides no detail of the treatment of any of the frontage area. If the application were being recommended for approval conditions would be included to detail retention of the front dwarf wall and care would be expected in regards the shop frontage and adverts. In terms of appearance, the precise changes to the front of the site are unknown. Within the application it does not state that there will any, but it is assumed that the change in use would be associated with a new shop frontage, advertisements and potentially the desire to remove the front wall and to tarmac over the garden.

- 5.14 The proposed rear extension would be a large rear projecting extension the full width of the property in a rear garden area immediately adjacent to the gardens of the neighbouring dwelling houses. No side windows are proposed with the side walls being 2.8 metre high brickwork with the rear ground floor windows of no. 142 and 146 having an outlook at the featureless wall 6m long by 2.8m high. This is not considered to be a sympathetic design as perceived from the immediate neighbours as it would be an unattractive and out of character extension. Paragraph 130 of the NPPF 2018 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.15 Although the proposal is considered to be of an unsympathetic and unattractive design the proposal is to the rear of the dwelling and the character of the local vicinity to the rear of these dwellings is not considered to be particularly attractive sensitive. The proposal is not considered to lead to a significantly negative impact in terms of general visual amenity to lead to a refusal for these reasons.

### **3. Residential Amenity**

- 5.16 Policy CS2 states that “all developments will also be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts”.
- 5.17 In terms of terraced houses it is considered that rear garden areas are particularly sensitive to the building of inappropriately designed rear extensions as the house widths and gardens both tend to be reasonably slim. This means that any change to the neighbouring houses can have a big effect and it is considered in this case that the proposed rear extension associated with the new business use would have a negative impact on the outlook of the residents of the dwellings either side of the site.
- 5.18 The proposal is not considered to significantly impact the neighbouring residents to the site in so far as overshadowing since their main orientation is such that their rear elevations face generally a southern direction. There would be no overlooking issue.

5.19 The proposal will change the existing situation to the rear of residential dwellings. It would propose a parking area and bin storage area beyond the proposed extension for both the retail unit and the dwelling however the impacts of this are unlikely to be so significant for the neighbours that a refusal would be justified. To the front of the site there would be a potential substantial change, as a shared access path would be utilised by customers and staff of the business as well residents of the proposed flat. To the front of the site the increase in flow in members of the public using the shared access to enter the shop would not be a positive situation for the residents of no.142, as the change could potentially negative impact their privacy to the front of their house however beyond the front garden area there is a public footpath, with no restrictions on this.



146



142

5.20 The photographs above show the property at No 146 has a low boundary wall and rail fence above on the boundary and that the rear windows are biased towards the application site. No 142 has a 1.8 metre panel fence along the boundary however the windows are biased to the opposite side of the plot to the application site. There will be more of an impact on the amenity of 146 however the impact on both will be adverse.

5.21 The application under the Larger Home Extension was agreed in 2018 on the basis of the procedure introduced by the government. On the basis that no objection was received from the neighbour an assessment of the impact was not possible and the extension had to be confirmed as permitted development. Had the neighbour objected at the time then the opportunity for assessment would have been provided and a different decision may have been reached. This procedure however only applies



to dwelling houses and not mixed commercial / flats and so a full assessment can be undertaken as part of the current submission.

- 5.22 The existing dwelling has a garden to the rear of the dwelling and if this were landscaped and managed appropriately this could be a suitable garden space for the residents of the dwelling. The proposals would lead to the loss to the majority of the rear garden space as the rear extension and parking area would take up most of the area. It is the case however that the proposed flat would have no amenity space. The minimum outdoor amenity space requirement for a flat is 25 square metres as stated within table 4 of the private amenity space (3.11.15) section of the Council's SPD Successful Places (2013). The scheme would therefore offer no external space for the flat and would be substandard. Furthermore because of the presence of a full width rear extension to the ground floor business premises there would be no access to the rear area from the flat and so the occupants of the flat would not be able to reach the bin area, the parking space or the small amount of residue amenity area left between the extension and the parking area. This is clearly indicative of the poor design which the NPPF para 130 advises should be refused.

#### **4. Highway Safety and Parking Provision**

- 5.23 The Highway Authority has made the following comments:

*Chatsworth Road is a very busy principal route – the front of the property has pedestrian access only. It would appear that there is rear vehicular access via Hipper Street West. Whilst there are no objections to the principle of the development given the former use, town centre location, on-street parking restrictions and proximity to public transport links it is recommended that 2 parking spaces are provided to the rear with one space allocated to each of the proposed uses. It is presumed that service/ delivery vehicles would use Chatsworth Road as per other premises at this location. The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins. Bin storage should not obstruct the private drive access, parking or turning provision. Additionally a dwell area for bins should be provided, clear of the public highway, for use on refuse collection days. Subject to the applicant providing revised drawings suitably resolving the above matters there are no further highway objections. If your Authority is minded to approve then please include conditions to cover the following in any consent granted;*

- *The premises, the subject of the application, shall not be occupied until 2 on-site parking spaces (each measuring a minimum of 2.4m x 4.8m) have been provided laid out and constructed as may be agreed with the Local Planning Authority with one space specifically allocated to each proposed unit and maintained thereafter free from any impediment to designated use.*
- *Prior to the occupation of either unit adequate bin storage and a bin dwell area for use on refuse collection days shall be provided clear of the public highway, within the site curtilage clear of all access and parking and turning provision and retained thereafter free from impediment to designated use.*

5.24 The existing site has no parking, but as a two bedroom house it would normally be expected to provide 2 spaces. The change to a business at ground floor and flat at first floor would increase the potential for vehicular travel related to the site. The upstairs one bedroom flat would have a requirement for one space, then one to two spaces for the business including staff parking and deliveries. There is some capacity in the on-street parking bays to the front of the site, although these are likely to be utilized by local residents and visitors to the local businesses. Several of the dwellings within the row of terraced houses have parking spaces to the rear of their site, with some of them in carports or garages. As this is within a local centre it is defined as a sustainable location. It is on a main bus route and it is expected that some people will walk or cycle.

5.25 As stated above, the proposal would normally be expected to provide 2 parking spaces to the rear. This would be tight due to the limited width available and it is unclear how this would work as no plan has been provided. It is considered that the proposal could easily fit 1 space in the area to the rear. In this context given the sustainable location it is considered that the proposal is acceptable in highways terms in relation to policies CS2, CS18 and CS20.

## **5. Environmental Health**

5.26 The Environmental Services Team were asked to comment but have not responded. The applicant has stated that they intend for the unit to be used a shop, so no information has been supplied in terms of extraction. In terms of opening hours a condition would have been sought to limit these, if the scheme had been recommended for approval.

5.27 There is an existing alleyway in-between the ground floors of no.142 and 144. No other additional information has been provided for how the business would control noise levels spreading to the adjoining dwellings. It is possible that opening hours could be limited by condition to ensure that the residential dwellings are not impacted outside of normal working hours (09:00 – 17:00).

## 6.0 **REPRESENTATIONS**

6.1 The resident of no.142 Chatsworth Road has objected and considers that a part commercial property is not suitable for this location. They consider that they would feel boxed in from two commercial properties, and that the cumulative effect of increased commercial units is not desirable. The proposal would lead to an increase in noise and footfall and this is concerning as the two buildings share a common access. The increase in footfall within this area would be unpleasant for the resident and impact their privacy to the front of their house. The resident also considers that insufficient information has been provided regarding waste collection and storage. They also consider that the proposal will lead to an increase in parking problems in the area, as it will lead to customers parking on the road, as well as deliveries to the business and activity related to the upstairs flat. They question how any proposed parking to the rear will work and that this will involve using an unadopted highway which is in a state of disrepair. They also stated that the previous OS site plan was incorrect. In their opinion the proposal would adversely affect the intrinsic value and character of the row of houses, which has been this way for hundreds of years. They do not consider that family homes should be lost such as this one. They do not want this to set a precedent. They consider that businesses should be encouraged to help support the struggling town centre, with the current high levels of vacant units. They should be encouraged to utilise an existing empty unit in the town centre rather than converting an existing house.

6.2 ***The issues raised by the neighbour are dealt with within the report.***

## 7.0 **CIL LIABILITY**

7.1 Having regards to the nature of the application proposals the development comprises the creation of new retail space and the development would therefore be CIL Liable. The floorspace measurements have been calculated as follows.

7.2 The site is within the medium CIL zone for residential use however retail uses are charged at the high zone rate. If it can be shown that the existing floorspace has been occupied for 6 months during the last 3 years then this floorspace can be deducted from the calculation however it is clear the new floorspace will be counted. The CIL Liability is calculated (using calculations of gross internal floor space [GIF]) as follows:

Plot	New GIF sqm	Calculation	Total
Retail Unit	24	24 x £80	£1,920
Total			£1,920

## 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. 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.

8.3 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.

## 9.0 **CONCLUSIONS**

9.1 The development is an appropriate use of a building in a sustainable location however the impacts on the neighbours are adverse and there is uncertainty regarding the extent of any alterations to the front of the property.

### 10.0 **Statement of Positive and Proactive Working With Applicants**

10.1 The Government (since the 1<sup>st</sup> December 2012) requires LPA's to include a statement on every decision letter stating how they have worked with the applicant in a positive and proactive way, in line with the requirements in paragraphs 186 and 187 of the NPPF.

10.2 Given that the proposed development would not conflict with the NPPF and with 'up-to-date' Development Plan policies having regard to the sustainable location of the site there is a presumption on the LPA to approve the application. However the LPA has contacted the applicant for more information on parking and opening hours and no information has been provided regarding alterations to the frontage. Furthermore the applicant did not take advantage of the free pre application advice offered by the Council in preparing their application submission.

## 11.0 **RECOMMENDATION**

11.1 That the application be **REFUSED** for the following reasons:

1. Policies CS2 and CS18 of the adopted Core Strategy require that development will be expected to "have an acceptable impact on the amenity of users and neighbours". The potential detrimental impacts of the proposed rear extension on the residential amenity of the neighbouring residents at 142 and 146 Chatsworth Road in terms of their outlook at a blank 2.8 metre high brick wall projecting 6 metres along the boundary would be seriously harmful to their residential amenity. The proposal is considered to be contrary to policy CS2 and CS18 of the Chesterfield Core Strategy 2011 – 31 and the requirements of the 2018 NPPF paragraph 130 which requires good design improving the character and quality of an area and the way it functions.
2. The amenity for the proposed flat is considered to be seriously detrimental having regard to the lack of suitable external amenity space and an access to the area to the rear where the waste bins would be placed and the parking opportunity is available and which is considered

to be contrary to Policies CS2 and CS18 of the adopted Core Strategy. The proposal is also therefore of a poor design contrary to the requirements of the 2018 NPPF paragraph 130 which requires good design improving the character and quality of an area and the way it functions and also the Councils 2013 SPD Successful Places.

3. A lack of information has been provided with the application to allow the local planning authority to properly consider the impact of the proposal on the street scene and Chatsworth Road Conservation Area in which the site is located.