ITEM 3

Case Officer: Paul Staniforth File No: CHE/18/00756/OUT
Tel. No: (01246) 345781 Plot No: 2/2668
Planning committee: 1st April 2019

Outline application with all matters reserved for a single detached dwellinghouse on land to rear 14 Avenue Road, Whittington Moor, Chesterfield for Mr Grant.

Local Plan - Unallocated
Ward - Diunston

1.0 **CONSULTATIONS**

Ward Members	No representations received
Environmental Services	Comments received recommending conditions.
Design Services	Flood Risk assessment and soakaway infiltration tests will be required.
Yorkshire Water Services	No comments to make.
Lead Local Flood Authority	No comment to make. Refer to standing advice.
Environment Agency	No comments to make
DCC Highways	Comments received – no objection in principle.
Coal Authority	No objection. Conditions requiring site investigation.
Neighbours/Site Notice	1 representation received – see report

2.0 **THE SITE**

2.1 The application site concerns a rectangular plot to the rear of 14 Avenue Road but which is accessed off Martins Walk. The plot is approximately 29 metres in length by 5.3 metres in width. The application site comprises a single storey building constructed partly of brick with a pitched corrugated roof and partly of concrete panels with a flat roof. The building is accessed via double doors directly off Martins Walk which is a public thoroughfare linking Avenue Road to the east through to Wordsworth Road to the south west.

2.2 The houses on Sandringham Close are situated to the south of and back onto Martins Walk. The site is surrounded by residential premises including the large rear garden of 14 Avenue Road which forms the northern boundary of the application site.

2.3 The site is separated from Martins Walk by the front section of the building wall and a palisade fence. The buildings and the ground within the site appear as neglected with significant amounts of rubbish accumulated to the detriment of the local area. Within the site there are also a number of self-set hawthorn, sycamore and alder trees to the side and rear of the building.

3.0 RELEVANT SITE HISTORY

3.1 CHE/1287/0739 – Retention of office accommodation in association with applicants Derbyshire Flooring Contractors business – Approved with conditions 16th June 1988.

4.0 THE PROPOSAL

4.1 The proposal is for an outline planning application with all matters reserved for one three bed dwelling sited within land. An indicative layout demonstrates an approximate location of the dwelling to be in line with the gable end of 24 Sandringham Close with equivalent sized areas to front and rear gardens. The dwelling is shown to be 4.5 metres wide by 7.5 metres deep. Access would be taken from Avenue Road via Martins Walk.

5.0 CONSIDERATIONS

5.1 **Local Plan Issues**

5.2 The site is situated within the built settlement of Whittington Moor within a predominantly residential area and which is situated within easy walking and cycling distance to the Whittington Moor District Centre.

5.3 Having regard to the nature of the application, policies CS1, CS2 and CS18 of the Core Strategy and the wider revised National Planning Policy Framework (NPPF) apply. In addition, the Council's Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.4 Policy CS1 (Spatial Strategy) states that the overall approach to growth will be to concentrate new development within walking and cycling distance of centres, and to focus on areas that need regenerating.

5.5 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:
a) adhere to policy CS1
b) are on previously developed land
c) are not on agricultural land
d) deliver wider regeneration and sustainability benefits
e) utilise existing capacity in social infrastructure
f) maximise walking / cycling and the use of public transport
g) meet sequential test requirements of other national / local policies

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

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

addition it requires development to have an acceptable impact on the amenity of neighbours.

5.8 In addition to the above, the NPPF places emphasis on the importance of good design stating:

"In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in the area, so long as they fit in with the overall form and layout of their surroundings." (para131)

"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, taking into account any local design standards or style guides in plans or supplementary planning documents" (para 130).

5.9 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.

5.10 The proposed development site is situated within easy walking and cycling distance from Whittington Moor District Centre and is therefore located close to all services and facilities available within the centre including frequent public transport links in and out of the town centre area. The site is located within a built-up area where new housing development would be considered appropriate in principle.

5.11 Policy CS2 sets criteria for assessing proposals for development on unallocated sites and which sets criteria for assessing proposals for such development. In relation to criteria (a), as mentioned above, the site can be considered a good walking and cycling distance from a centre, and therefore such a scheme contributes to delivering the spatial strategy. The spatial strategy also sets out the overall housing requirement for the borough, and the proposal would also make a contribution to delivering that, albeit small. The

site is within the existing built up area and is a site which is considered to be on previously developed land (criteria b). The site is also not on the best or most versatile agricultural land (criteria c). Although sustainably located being on the edge of the Whittington Moor District centre and other community facilities in the area, the proposal does not however, offer wider regeneration benefits to the area other than a tidying of what is a poorly maintained site (criteria d). Provided contributions are made to providing additional infrastructure capacity through Community Infrastructure Levy (CIL) payments the proposal would also accord with criteria (e). Whilst it is not necessary for a development to meet all of the requirements set out in policy CS2 in order for a proposal to be acceptable, weight should be given to the extent that they are able to. As such, this proposed development site is considered to be sufficiently sustainable for a development of an additional dwelling and which adheres to the policies CS1 and CS2 of the Core Strategy.

Design and Appearance (Including Neighbour Effect)

5.12 The site does not occupy a prominent position within the street scene and is located in a back land area between existing built up cul de sacs. It is suggested that a single two storey dwelling could replicate and continue the design and layout principles established on the neighbouring Sandringham Close scheme. A two storey dwelling would not appear dominant or overly cramped within the wider context. There would be no over bearing or overshadowing impact and the design of the building can be such that the privacy of neighbours can be safeguarded. Such a layout is reflected in the indicative scheme accompanying the application however the design and appearance of the scheme would not be considered until the reserved matters submission.

5.13 Removal of the existing business premises within the residential area would significantly improve the living conditions of the adjacent local residents given the buildings commercial use. The site is also a visual mess with the accumulation of rubbish alongside the public thoroughfare and the opportunity arises to provide a proper boundary treatment and tidy up this area.

5.14 Overall the principle of the development of the plot of land is considered to be of an appropriate size to accommodate a dwelling, but no further assessment can be made of the site until additional information is supplied in a reserved matters application. A proposed development is considered to be able to be provided with sufficient space standards and which responds to the provisions of policies CS2 and CS18 of the Core Strategy and the wider SPD.

Environmental Services

5.15 Environmental Services were consulted on this application and they have raised no objections subject to conditions requiring the terms of working hours, contaminated land and air quality. It is considered that such conditions are appropriate and can be imposed on any planning approval.

Drainage

5.16 Design Services requested a Flood Risk assessment which was subsequently submitted by the applicant. This was produced by UK Flood Risk Consultants and which concludes that the risk of surface water flooding to the site is low and has the potential to be improved by implementing appropriate SuDS as part of the development. The site is outside of any flood zone and the Environment Agency, Yorkshire Water and the Lead Local Flood Authority all confirm that they have no objections to the proposal. Detail of surface water and foul drainage on site will be a matter for consideration at a reserved matters stage and is a matter therefore dealt with by condition.

Highways Issues

5.17 The Highway Authority comment that the location is not ideal given that Martins Walk is relatively narrow and the site is somewhat constrained to provide a dwelling, parking and manoeuvring. The Highway Authority is also mindful of the current office use and this could continue or be converted under Prior Notification procedure to a dwelling. On this basis the Highway Authority confirm that they could not sustain a recommendation for refusal and they recommend conditions covering the following:

1. A Construction Management Plan (CMP) or construction Method Statement dealing with parking of vehicles for site operatives and visitors, routes for construction traffic, hours of operation, method of preventing debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles.
2. Space for parking and manoeuvring of vehicles.
3. No gates or barriers on then driveway.
4. The Driveway to Martins Walk being no steeper than 1 in 14 over its entire length.

5.18 The suggested conditions can be imposed as conditions on any approval. It is considered that a CMP is crucial given that the only access to the site is via Martins Walk however space can be provided on site such that the route of Martins Walk would not be obstructed by materials during the construction process. This can be designed and required to ensure the safety of users of Martins Walk. Martins Walk varies in width along its length however it is between 3 and 4 metres wide for the majority of its length. Access to the plot is restricted to be from the Avenue Road direction because of the presence of barriers on the Wordsworth Road side of the thoroughfare. There is already a vehicular access along Martins Walk to the rear garden area of 14 Avenue Road where a double width gate exists. The site is of sufficient dimensions to provide a couple of parking spaces side by side however it would not be possible due to the narrow width of the plot (approximately 5.3 metres) to provide useable on site turning facilities. Martins Walk is a popular and busy cut through used by residents in the area connecting housing areas to Whittington Moor commercial facilities. It would be crucial therefore to ensure that turning facilities are provided to avoid a situation where vehicles have to be reversed along the length of Martins Walk which would not be in the best interest of users of Martins Walk. The entrance to the plot from Martins Walk is at a corner on the thoroughfare and this appears to be the only opportunity to be able to turn a vehicle however this may well end up being a 4 point turn and which would be at a point where visibility of pedestrians and cyclists on Martins Walk will be very limited. It is accepted however that this situation may well occur now with the office use of

the existing building however it is clear that a new family 3 bed dwelling is likely to be more frequently visited by vehicles when compared with the very limited use of the existing office. Furthermore it is accepted that the General Permitted Development Order Class O introduces a Prior Approval process in connection with conversion of such an office into a C3 dwelling however the Council would be entitled to consider the transport and highway impacts of a development and such concerns raised in the paragraph above would be material. It is not considered that there is necessarily a realistic fallback position with regard to Class O in this case.

5.19 The junction of Martins Walk with Avenue Road has reasonable visibility in the direction towards Whittington Moor (right) however it is restricted to the left by the narrower footway, vehicle parking and the boundary treatment to the front of 14 Avenue Road. Notwithstanding this the proposed development has to be considered against the traffic associated with the existing commercial use the fact that the highway authority do not recommend refusal and it is not considered therefore that a refusal could be substantiated on this basis.

5.20 Having regard to the principles of policies CS2 and CS18 of the Local Plan in respect of highway safety it is considered that the development proposals pose any adverse risk to highway users safety on the basis of insufficient space being available on or off site to be able to provide an adequate level of turning.

Coal Mining Risk

5.21 In respect of potential Coal Mining Risk, the site the subject of the application is situated within the high risk area and the applicant has submitted a Coal Mining Risk Assessment. This has been accepted by the Coal Authority as appropriately considering the risks and which identifies the risk posed by unrecorded shallow workings beneath the site which could cause instability problems at the surface. Intrusive site investigations are recommended and the Coal Authority concur with the recommendations. No objections are therefore raised subject to the imposition of conditions requiring the site investigation process.

Trees

5.22 There are a number of self set trees on the site which together form a small group however the trees are not protected and do not contribute in any significant way to the amenity of the local area. The scheme will involve their removal which is not considered to be a planning problem.

Community Infrastructure Levy (CIL)

5.23 Having regard to the nature of the application proposals the development comprises the creation of 1 no. new dwelling and the development is therefore CIL Liable. The site the subject of the application lies within the medium CIL zone and therefore the full CIL Liability would be determined at the reserved matters stage on the basis of a cumulative charge of £50 per sqm (index linked) of gross internal floor area created.

REPRESENTATIONS

5.24 As a result of neighbour consultation a letter of representation has been received from 14 Avenue Road raising the following issues.

1. Parking on Avenue Road is overcrowded. This would be made worse by the scheme to develop the Travellers Rest with no parking provision.
2. Concerns regarding access by emergency services such as fire appliance due to the limited narrow access width.
3. Where will materials be stored? No 14 requires daily access, twice a day to their garage which is located at the bottom of Martins Walk. Concern that their access would be obstructed.
4. Martins Walk is a public thoroughfare used by a range of people including the elderly and young and mums with pushchairs. The development will have an impact on this relied upon access.
5. The trees provide privacy, shelter and add to ambience and support wildlife.

6. Retention of the trees would be too close to the dwelling creating a cramped relationship detrimental to amenity and adding pressure to remove the trees.
7. The gov.uk website requires 74 m2 floor area for a 3 bed dwelling. The scheme proposes 33.75 m2 which is half of what is required.
8. The development will sit on their garden boundary with no gap leading to a breach of privacy and impact on their peaceful enjoyment of their home and garden. The development will also impact unacceptable on other neighbours as a result of overlooking, loss of privacy and overbearing impact.
9. Demolition of the existing building will leave their property open and unsecure.
10. The current office is only used during normal working hours. A dwelling would require 24 hour access potentially causing noise disturbance and light pollution and which would impact on their childrens bedrooms located at the back of the house.

5.25 ***Comments:***

It is accepted that parking takes place on Avenue Road because there are no restrictions. The debate about the Travellers site has moved on now that the building has been demolished however whilst the scheme showed no on site parking space the planning committee imposed a condition which required on site space for parking. The proposal has to be balanced against the existing use and the fallback position of a conversion under Prior Notification procedures.

A CMP would deal with how materials are stored in connection with the construction process.

The impact on users of Martins Walk is of relevance and is a concern as referred to under paragraph 5.18 above however the existing use has to be weighed in the balance of considerations as does the lack of support for a refusal from the Highway Authority.

See paragraph 5.22 regarding the issue of the trees.

In so far as the potential for overlooking, overshadowing and impact on outlook this would be a matter for consideration at the reserved matters stage. The security of the neighbours property would be a matter between the respective property owners and would not

be an issue which influences whether planning permission is granted or not.
The reference to the gov.uk website standards is a reference to standards which have not been adopted by Chesterfield Borough Council and is not a standard which can thereby be relied upon. The objector suggests that the proposal is 50% below the standard however this would not be the case. The applicant refers to a two storey dwelling which would have 33.75 m2 on each floor totalling 67.5 m2. The table attached to the objectors representation suggests that for a two storey 3 bed dwelling that 84 m2 would be required.

6.0 **HUMAN RIGHTS ACT 1998**

6.1 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

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

6.3 The recommended refusal is considered to be necessary in the interests of public safety and which interfere as little as possible with the rights of the applicant. The applicant has a right of appeal against a refusal.

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

7.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

7.1 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 July 2018 National Planning Policy Framework (NPPF).

7.2 The proposed development conflicts with the principles of the NPPF and the relevant Development Plan polices for the reasons given in the report above.

7.3 The conflict with Development Plan policies has led the LPA to conclude the development does not fully meet the definitions of "sustainable development" having regard to local character and amenity and a presumption on the LPA to seek to approve the application is not considered to apply.

8.0 CONCLUSION

8.1 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'. In this context the application has been considered against all up to date development plan policies and the wider national planning policy framework as detailed in the report above. In this respect there are a number of fundamental concerns concerning public safety arising from the development proposals which have led the Local Planning Authority to conclude that the application should be refused. The proposal is considered to be in conflict with policy CS2 and CS18 of the Core Strategy and the wider National Planning Policy Framework.

9.0 RECOMMENDATION

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

1. In the opinion of the local planning authority the application site is of insufficient dimensions to incorporate any on site turning facilities and which will result in either reversing along Martins Walk or tortuous manoeuvring within the Martins Walk public thoroughfare. This will lead to circumstances which are contrary to the interests of highway and public safety. The proposal is therefore considered to be in conflict with policy CS2 and CS18 of the Chesterfield Local Plan Core Strategy 2011 – 31 and the wider National Planning Policy Framework 2019.