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Ctte Date: 1<sup>st</sup> July 2019

File No: CHE/19/00102/FUL  
Plot No: 2/734

## **ITEM 1**

### **Demolition of buildings used for commercial purposes and erection of 7 dwellings and conversion of out-buildings for use as home-working studios (in conjunction with the dwellings) and associated access/parking and landscaping at Handleywood Farm, Whittington Road, Barrow Hill. S43 2PW**

Local Plan: Greenbelt  
Ward: Barrow Hill & New Whittington

#### **1.0 CONSULTATIONS**

DCC Highways	Revised Comments received 20/05/2019 – see report
DCC Rights of Way	Comments received with above Public RoW should not be obstructed.
DCC Archaeology	Comments received 15/04/2019 - not consider that it will have any significant archaeological impact
Derbyshire Wildlife Trust	Comments received 18/04/2019 – No objections - , see report
Environment Agency	25/05/2019 – no objection
Coal Authority	05/04/2019 – holding objection – see report
CBC Design Services	23/02/2016 – comments received – see report
CBC Environmental Health	27/03/2019 – comments received - no objection – see report

Staveley Town Council	No comments received
Network Rail	Comments received on 12 April 2019. No objections in principle, recommends soundproofing
Yorkshire Water	Comments received 26/03/2019 – No objections
Ward Members	No comments received
Site Notice / Neighbours	No comments received

## 2.0 **THE SITE**

- 2.1 The site the subject of the application comprises of land within the curtilage of Handleywood Farm (which has recently been the subject of planning permission for a replacement farmhouse building that is under construction). The site is bound on the north by Staveley Footpath 2 which leads from the corner of Whittington Road on a west – east axis and to the south lies the railway freight line.



- 2.2 The overall farm complex, which in addition to the new and old farmhouse building, comprises of a cluster of barns, outbuildings and stables located predominantly in the western proportion of the site.

## Photos of Outbuildings



- 2.3 In the eastern proportion of the site there is an equestrian ménage and open fields. The site is served by an access track which follows the alignment of the public right of way linking through to Whittington Road.

## Photos of Access Track



- 2.4 The site has had an appreciable planning history, with an engine recovery business still operating from within the site.

### 3.0 **RELEVANT SITE HISTORY**

#### 3.1 **Previous Site History - Outbuildings**

CHE/16/00023/FUL - Demolition of buildings used for commercial purposes and erection of 5 dwellings, access and landscaping. Approved conditionally 10<sup>th</sup> August 2016

CHE/10/00162/EOT - Extension of time of CHE/07/00198/COU for change of use of buildings for B8 storage and B2 industrial use. Approved conditionally 1st September 2010.

CHE/09/00665/EOT - Extension to the time limit for carrying out the alterations to the vehicular access to the highway (CHE/06/00669/FUL). Approved conditionally 7th December 2009.

CHE/09/00179/DOC - Discharge of condition 5 of planning application CHE/07/00198/COU. Approved 18th May 2009.

CHE/07/00198/COU – Use of buildings for storage (B8) an industrial use (B2). Approved conditionally 30th May 2007 – conditions concerning landscaping, outside storage and parking.

CHE/06/00669/FUL – Alterations of vehicular access to highway. Approved conditionally 26th October 2006.

CHE/04/00827/COU – Retrospective application for retention of use of buildings for storage (B8) and Industrial Use (B1 and B2). Refused 17th December 2004.  
Appealed under PINS Ref. - APP/A1015/A/05/1172927 and dismissed.

#### 3.2 **Previous Site History - Enforcement Action**

Enforcement Notice (1) under Section 171A(1) of the T&CP Act 1990 (as amended by the Planning and Compensation Act 1991) in respect of land at Handley Wood Farm.

Breach of Planning Control: Without planning permission change of use of the land from agricultural use to use for vehicles and vehicle parts processing and storage.

Steps to be taken: (1) Cease the use of the land for the importation storage and processing of vehicles and vehicle parts other than as ancillary to the agricultural use of the land. (2) Remove

permanently from the land all part dismantled and stored vehicles and vehicle parts other than those ancillary to the agricultural use of the land.

Time for compliance: 9 months after the notice takes effect. The notice took effect on the 19th November 2004 unless an appeal was made against it beforehand.

Notice dated: 20th October 2004. Appeal received.

NB: Inspector's Decision Letter dated 25th May 2005: Notice upheld on the basis of risk to highway safety from substandard access however the inspector considered the use and the impact on the green belt was no more than compared with the lawful use of the site for agriculture.

Enforcement Notice (2) under Section 171A(1) of the T&CP Act 1990 (as amended by the Planning and Compensation Act 1991) in respect of land at Handley Wood Farm Whittington Road Barrow Hill Chesterfield.

Breach of Planning Control: Without planning permission the erection of a portal frame building shown edged blue on the plan. Steps to be taken: Dismantle and remove the portal frame building from the land.

Time for compliance: 6 months after the notice took effect. This notice took effect on the 19th November 2004 unless an appeal was made against it beforehand. Notice dated: 20th October 2004. Appeal received.

NB: Inspector's Decision Letter 25th May 2005: Notice quashed by the Inspector.

### 3.3 Previous Site History - Farmhouse

CHE/11/00611/FUL - Demolition of existing building and erection of replacement dwelling - supporting information received 19/12/2011 (Bat Survey & Materials Samples). Approved conditionally 22nd December 2011.

CHE/09/00646/NMA – To extend the width of the approved dwelling by 1 metre on each side (application CHE/08/00592/FUL). Granted 3rd November 2009.

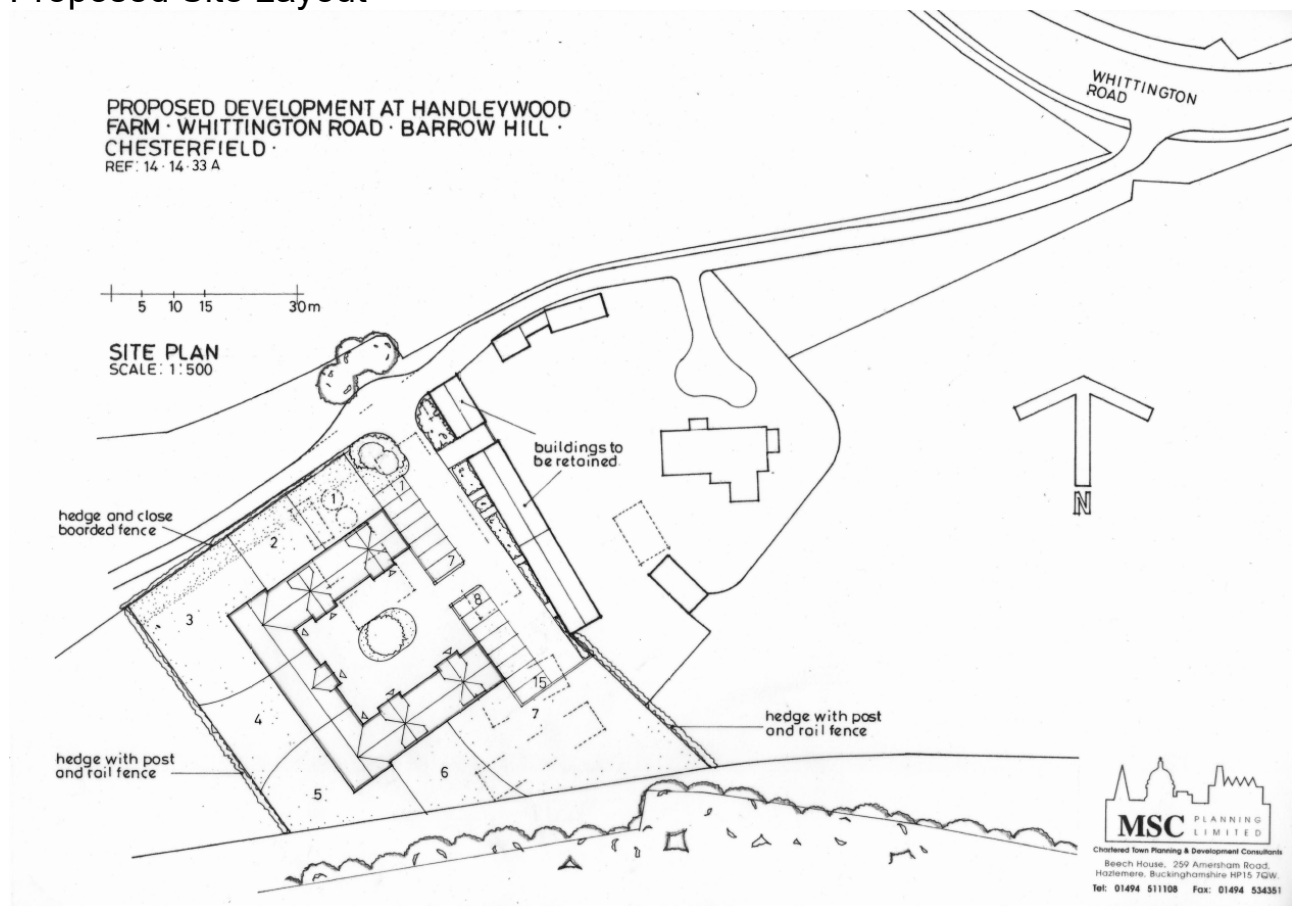
CHE/08/00592/FUL – Demolition of existing dwelling and erection of replacement dwelling. Conditional permission granted 9th December 2008.

CHE/06/00901/FUL – Construction of a ménage. Approved conditionally 17th January 2007.

#### 4.0 **THE PROPOSAL**

- 4.1 The application, which is submitted in full, proposes the erection of 7 new dwellings (as a replacement of the 2016 permission for 5 units) on land at Handleywood Farm which lies in the western proportion of the site. Currently there are a number of barns, stables and outbuildings to the west of the original and new farmhouse buildings which are subject to be cleared / demolished and/or re-used as part of the development proposals.

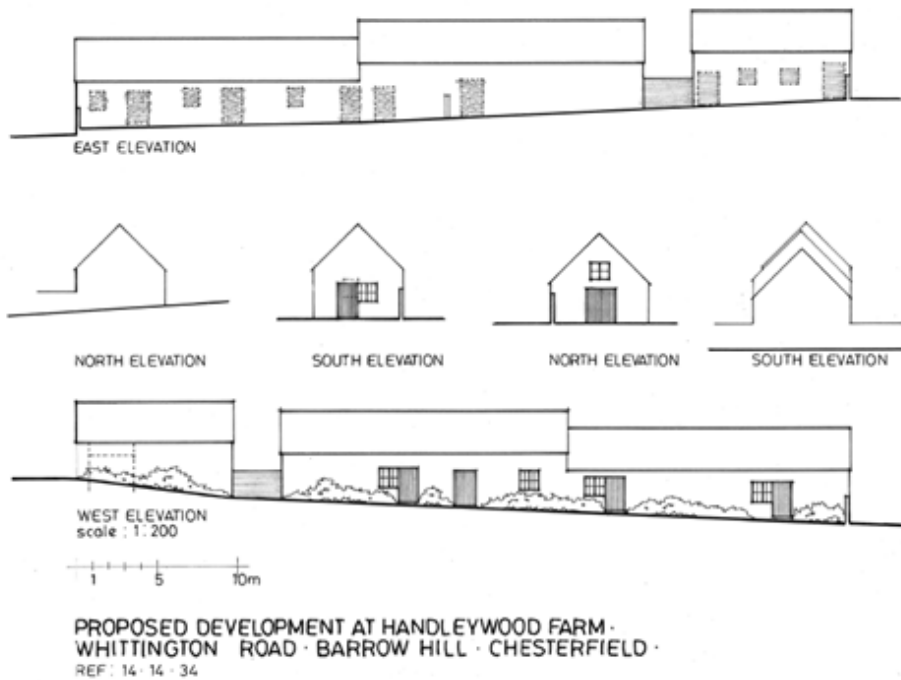
#### Proposed Site Layout



- 4.2 The proposed site layout details development in a new courtyard arrangement which comprises of three new blocks of development arranged north, west and south of the central courtyard which is enclosed on the eastern edge by the existing 3 no. barns shown on the proposals plan to be retained and converted to studio's and a bin / bike store.



## Alteration of Stables to Studios

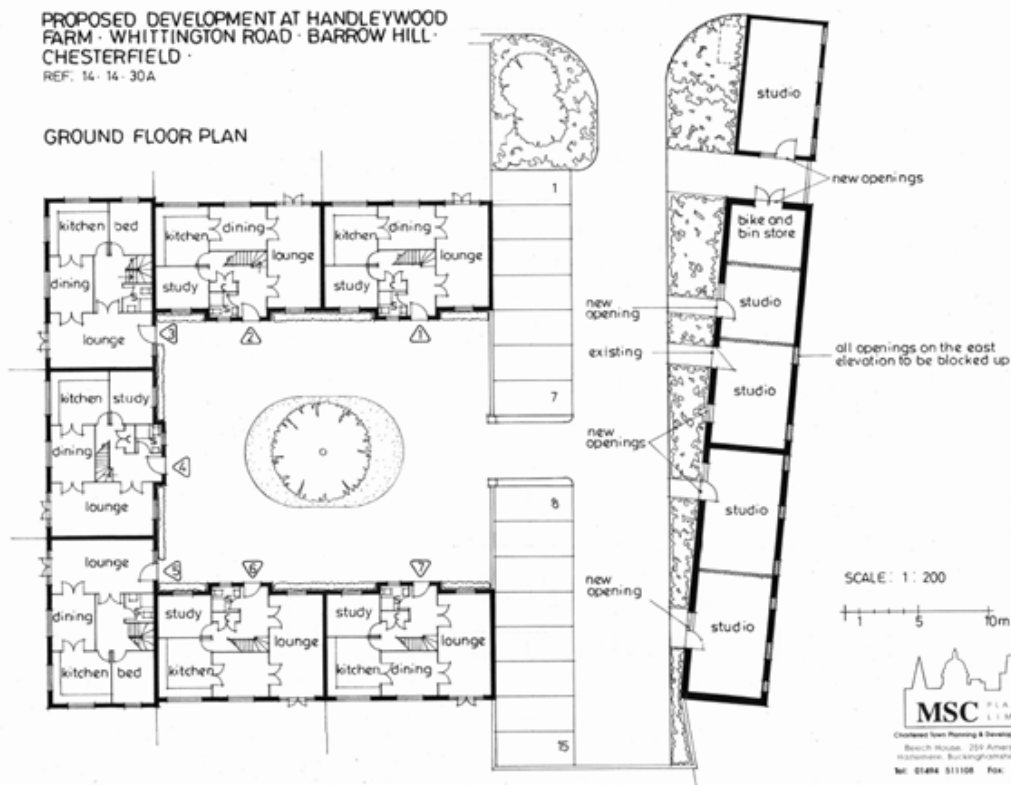


- 4.3 The 7 no. new dwellings will be accommodated exclusively in the new block of development which is one and half storey in scale and includes rooms in the roof space. A series of dormer windows positioned in the internal and external roof slopes to first floor accommodation are proposed. 6 no. three-bedroom properties and 1 no. four bedroom property are illustrated. A feature tree is shown to be located centrally in the courtyard area and 2 no. parking spaces will be provided per dwelling and 3 for the 4 bedrooomed unit.

## Proposed Floor Plans and Elevations

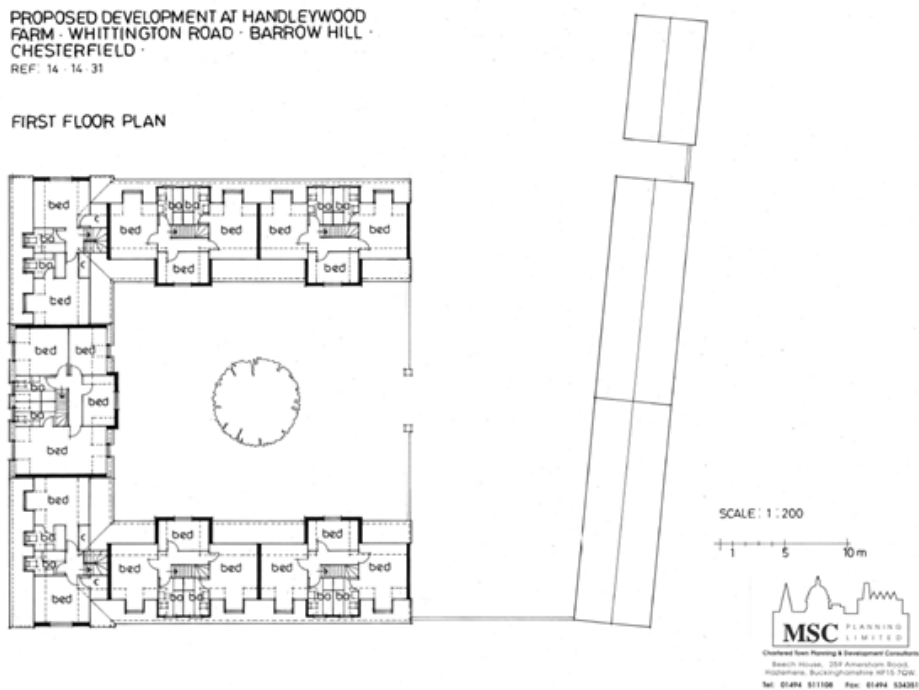
PROPOSED DEVELOPMENT AT HANDLEYWOOD  
FARM · WHITTINGTON ROAD · BARROW HILL ·  
CHESTERFIELD ·  
REF: 14 · 14 · 30A

GROUND FLOOR PLAN



PROPOSED DEVELOPMENT AT HANDLEYWOOD  
FARM · WHITTINGTON ROAD · BARROW HILL ·  
CHESTERFIELD ·  
REF: 14 · 14 · 31

FIRST FLOOR PLAN







#### 4.4 The application submission is supported by the following documents:

- Covering letter prepared by MS Crook January 2019
- Coal Report 25 July 2013
- Bat and Breeding Bird Survey Report June 2016
- Highways Information (email dated 30/06/2016)
- Valuation Report prepared by Wilkins Vardy Dec 2018
- C.I.L Forms

#### 4.5 Comments from the applicant state:-

- This remains an application to remove the commercial operations and buildings at Handleywood Farm and replacement with new dwellings
- It is a revision to the 5 dwelling scheme (CHE/16/00023/FUL) approved in August 2016
- The 5 dwelling scheme was not viable and a report from Wilkins Vardy on the approved scheme is include
- The report recommends that the scheme is not viable due to the size of the units, which should be reduced in floorspace – accordingly the scheme has been increased to 7 dwellings being smaller units, and is a slightly smaller footprint than already agreed.

- The substitution of one scheme for another raises no policy issues from the change in number of dwellings and enhances green belt policy.
- The 2 extra dwellings makes no material change to the approved scheme and the siting/design/materials and landscape remain the same.
- The parking has been change to reflect the changed number of units.

## 5.0 **CONSIDERATIONS**

### 5.1 **Development Plan Policy**

- 5.1.1 The site is situated within the open countryside between New Whittington and Barrow Hill, defined as Greenbelt in the Replacement Chesterfield Borough Council Local Plan 2006 and Local Plan: Core Strategy 2013. Having regard to the nature of the application policies CS1, CS2, CS3, CS4, CS6, CS7, CS8, CS9, CS11, CS13, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

### 5.2 **Principle of Development (Green Belt, Spatial Strategy and 5 year Housing Land Supply)**

#### **NPPF – Green Belt**

- 5.2.1 Regardless of the previous/existing use, the site is in the Green Belt and as such the proposal for new residential development would be considered on face value to be inappropriate development. The key policy consideration therefore would be whether the proposal meets any of the exceptions set out in paragraph 145 of the NPPF and the last three bullet points have particular relevance to this proposal:
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

It is considered that the proposal could fall within the scope of the final bullet point, as the site is previously developed land.

- 5.2.2 Currently the use taking place at the site, which is authorised, is not considered compatible with the Green Belt designation as there are cars and other associated paraphernalia stored in the open and around the site. The site resembles a scrap yard however it is an established use. The only issue is therefore whether the proposed development with 2 additional units and additional car-parking, would have any greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development / use operating.
- 5.2.3 Paragraph 133 of the NPPF emphasises the importance of the openness and permanence of the Green Belt. Although the proposed development is broadly within the footprint of an area of previously developed land, the existing buildings are agricultural in nature (despite the uses within them not being agricultural uses), and this provides a sense of openness in terms of giving the appearance of a farm within the open countryside. The redevelopment of the site for housing could have a more significant impact on the sense of openness of that area of the Green Belt. The design features – courtyard layout and single storey with dormers – does however offer a design that is in keeping with a traditional farm character, but the proposal is never the less significant, involving an increase from 5 to 7 dwellings with associated studio space in the existing stone outbuildings.
- 5.2.4 The five purposes of the Green Belt are set out in paragraph 134 of the NPPF:
- To check the unrestricted sprawl of large built-up areas
  - To prevent neighbouring towns merging into one another
  - To assist in safeguarding the countryside from encroachment
  - To preserve the setting and special character of historic towns

- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

5.2.5 It is considered that whilst the proposal does have a greater impact on the Green Belt (particularly the first three bullet points) than the existing uses and buildings, residential uses are different in nature, traffic generation and appearance to the existing uses. This must be balanced with the opportunity to secure enhancements, to boost the supply of new homes (as the council does now have a 5 year supply of land for housing) and also to remove an inappropriate and visually harmful use from the Green Belt especially when viewed from the Public right of way (PROW) which passes through the site. It is also significant that the same building mass has already been accepted and is therefore considered to be a fall back situation which should weigh in the application of the tilted balance in this case. The increase in dwelling numbers from 5 to 7 smaller units is not considered to have a significant impact on the openness of the green belt area.

### **Local Plan; Core Strategy**

5.2.6 Policy CS1 Spatial Strategy states that the existing Green Belt will be maintained and enhanced. Considerations regarding the Green Belt are dealt with above however in terms of new housing, CS1 seeks to focus new development within walking and cycling distance of centres and at regeneration priority areas. The site is not within a regeneration area.

5.2.7 The site is around a mile (20 minutes walking distance) of the local centre at New Whittington, along Whittington Road. There is a more direct route along the old Staveley Road highway (PROW) which runs past the site. In this respect the proposal does accord with CS1, and although Whittington Road is not lit, there is a pavement.

5.2.8 Policy CS2 Principles for Location of Development states that: In allocating new development, or assessing planning applications for developments that are not allocated in a DPD, sites will be assessed by the extent to which the proposals meet the following requirements:

- a) deliver the council's Spatial Strategy
- b) are on previously developed land that is not of high environmental value;

- c) are not on the best and most versatile agricultural land;
- d) deliver wider regeneration and sustainability benefits to the area;

All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as ...appearance...shading or other environmental, social or economic impacts.

- 5.2.9 It is considered that the proposal broadly meets with the requirements of policy CS2.
- 5.2.10 The 2016 planning permission for the erection of 5 dwellings, was acceptable within the greenbelt for the reasons given, and this permission establishes the principle of re-developing the green belt site for housing purposes, and the key issue is whether the change to the number of units and the modest increase in parking, would fundamentally change the impact on the open-ness of the green belt, such that the previously established “very special circumstances” no longer applies.
- 5.2.11 The 7 dwellings now proposed occupies an almost identical footprint as the previously approved building, and therefore there would be no additional impact on the open-ness of the green belt arising from the mass of the buildings or the change to the number of units on the site.
- 5.2.12 The sub-division of the site in to 7 units (rather than the approved 5 units) would have a marginal difference in relation to open-ness, arising from the additional fencing to sub-divide the gardens, and the extra parking for the additional 2 units. The parking is well screened between the proposed dwellings and the retained outbuildings and the impact on open-ness would be little different from the approved scheme, and therefore the very special circumstances for allowing inappropriate development in the green belt still applies to the new scheme now proposed.
- 5.2.13 Currently the Council is in a position where it can demonstrate a 5 year supply of housing although there remains the wider principles of the NPPF to significantly boost housing land supply, although the applicants viability report indicates that it is only economically viable to advance a scheme of smaller, but a greater number of units. In respect of this site the history associated with the site and the use taking place is set out in section 3.0 above and the Council

would welcome an opportunity to dissolve or relocate this use to an area which is more appropriate to its B2 classification. Some of the buildings on site are dilapidated and the open storage of vehicles and other paraphernalia detracts from the character and appearance of the area. It is considered that these development proposals provide an opportunity to secure redevelopment of the site in a sympathetic but viable scale which would ultimately provide enhancement to the area, whilst contributing to the much needed housing supply. On balance therefore whilst it is accepted that the development could have a minor adverse impact upon the Green Belt by virtue of its scale and character and parking, it is by no means considered so significantly harmful that this outweighs the benefits highlighted above. It is therefore considered that the principle of development can be accepted in this case.

### 5.3 **Design and Appearance Considerations**

- 5.3.1 The design, scale and appearance of the development proposals are considered to be appropriate. The one and half storey scale and courtyard arrangement is typical of rural setting residential led redevelopment proposals and this is considered to be acceptable alongside the re-use of the barns /outbuildings to the east of the new development footprint.
- 5.3.2 It will be important to ensure that appropriate materials and finishes are chosen, alongside soft and hard landscaping surrounding the development footprint to ensure that the scheme reflects local character and is quickly embedded into the open countryside/green belt. Appropriate conditions for approval of materials and hard / soft landscaping can be imposed.
- 5.3.3 Overall it is considered in the context of the provisions of policies CS2 and CS18 of the Core Strategy the proposals are appropriately sited, scaled and designed. Notwithstanding this however, it would be undesirable given the overriding Green Belt designation in the area that these properties benefit from permitted development right freedoms as this poses potential for extensions to result in sprawl and ad hoc additions which would erode the character established by the development design / footprint. Permitted development freedoms for extensions and additional window openings shall be removed by condition.

### 5.4 **Neighbouring Impact / Amenity**

- 5.4.1 The site the subject of the application sits in relative isolation, with the farmhouse of Handleywood Farm itself being the only boundary sharing neighbour to the proposed development.
- 5.4.2 Having regard to the siting and orientation relationship of the scheme to the farmhouse it is not considered that the development will impose any adverse amenity impacts upon the closest neighbouring property.
- 5.4.3 Having regard to the neighbouring relationship created as a result of the development proposals it is accepted that the courtyard arrangement of the 7 no. dwellings is based around a 20m x 20m space which means separation distances generally accord with the guidance in the Councils Successful Places SPD. The relationship created by the courtyard arrangement is not unusual for a rural development of this nature and the distance is acceptable.
- 5.4.4 In the context of the provisions of Policies CS2 and CS18 of the Core Strategy and the material planning considerations in relation to neighbour impact, it is concluded the proposals will not impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies.

## 5.5 **Ecology / Biodiversity**

- 5.5.1 Having regard to the nature of the application site and the development proposals it is accepted that there would be loss of outbuildings / barns located in a rural setting. Due to their condition these buildings pose suitable habitat for nesting birds and bats and following initial consultation with **Derbyshire Wildlife Trust (DWT)** it was concluded that a bat and bird survey of the buildings was necessary.
- 5.5.2 Accordingly appropriate surveys were undertaken by Estrada Ecology and a Bat and Bird Survey Report was submitted dated June 2016 in relation to the earlier scheme. DWT has commented as follows:-
- “A Bat and Breeding Bird Survey Report was produced in 2016 to accompany a previous application at the site. No roosting bats were recorded in the stables during survey in 2016. It is also understood that no roosting bats were recorded during earlier



survey work in 2010. These surveys did not assess the commercial buildings at the site, however these are considered extremely unlikely to support roosting bats. We consider that sufficient information has been provided to determine the application. No further survey work is required before demolition of the commercial buildings. However, given the potential roosting features associated with the stables and that the survey work is now approaching three years old, we advise that a minimum of one nocturnal bat survey is undertaken before conversion of the stables as a precautionary measure. This must be carried out between May and August and could be secured through a condition, in this case.

A net biodiversity gain could be achieved through the incorporation of ecological enhancements, in accordance with the NPPF 2019.

Should the council be minded to approve the application, we advise that the following conditions are attached to any permission:

#### Update Bat Survey

As a precautionary measure, at least one nocturnal bat survey shall be undertaken prior to conversion works commencing on the stables. The survey(s) shall be undertaken in the peak activity season (May-August) and results submitted to the LPA. If roosting bats are recorded, an adequate mitigation and licensing strategy shall be submitted to the LPA for approval, prior to any works.

#### Nesting Birds

No stripping or demolition of any buildings or tree/shrub removal shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. 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.

#### Lighting

Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. The location of luminaires should consider integrated bat boxes. 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.

#### Biodiversity Enhancement Plan

Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2019. Such approved measures should be implemented in full and maintained thereafter.

Measures shall include (but are not limited to):

- at least three integral bat boxes in new dwellings (positions/specification/numbers).
- compensatory swallow nesting opportunities (positions/specification/numbers) (must be internal)
- hedgehog connectivity measures, such as small fencing gaps (130 mm x 130 mm), railings or hedgerows.
- summary of ecologically beneficial landscaping (including replacement tree planting and proposed hedgerows)".

- 5.5.3 On the basis of the comments received above (which were provided as part of the DWTs service level agreement with the LPA) it is considered that the loss of the barns /out buildings is acceptable. An appropriate planning condition can be imposed on any subsequent decision notice to ensure demolition of the barns/out buildings takes place outside of bird breeding / nesting season, unless it is first confirmed by an appropriately certified ecologist that any abandoned nests are not being used. Overall it is considered that a biodiversity gain (policy CS9 of the Core Strategy) can be secured by an appropriately detailed soft landscaping scheme being provided within and surrounding the development site to ensure that any temporary disturbance to biodiversity/habitat is subsequently compensated / enhanced.

## 5.6 **Highways Issues**

- 5.6.1 The application submission proposes the development to be served from the existing access taken from the corner of Whittington Road which serves both the farmhouse and the current business use located on site. As part of previous planning permissions (see site history above) improvements were undertaken within highway limits to create a right turn harbourage from Whittington Road into the existing site access.
- 5.6.2 The **Local Highways Authority (LHA)** has reviewed the application proposals and provided initial and revised comments which respond to the applicant's provision of further Highway

Information. The following comments, in respect of highway safety, have been raised:

*'The Highway Authority is in receipt of a revised plan in respect of the above proposal following its initial comments on the application in its letter dated 24 April 2019.*

*The Highway Authority raised issue regarding the dwellings to be provided based on the discrepancy between the application form and the layout plan, the potential intensification in use of a substandard access given two additional dwellings to the previously approved scheme and the number of car parking spaces to be provided.*

*The revised layout indicates one additional parking space despite the Highway Authority's comments that an appropriate amount of off-street parking should be provided, ideally based on two spaces per two/three bedroom dwelling or three spaces per four/four plus bedroom dwelling.*

*I trust you will ensure that off-street parking is provided in accordance with your Local Plan.*

*No other information/confirmation is provided with respect to the discrepancy between the application form and the original layout plan or the potential intensification in use of a substandard access given two additional dwellings over the previously approved scheme and the Highway Authority considers that it is not, therefore, in a position to provide formal comments on this application at this time.*

*The Highway Authority would also point out that there is a Public Right of Way – Footpath 2 on the Definitive Map for the area - that passes the site and would not wish to see this route obstructed by vehicles or the safety of users of the route prejudiced either before, during or after any development that might take place.*

5.6.3 The revised plans received, provide for the appropriate level of parking, which complies with the adopted standards, and it is considered that any opposition to the scheme based on parking limitations would be unfounded.

5.6.4 It is not considered that the change from 5 dwellings to 7 more modest sized units would create a significant intensification of traffic, and paragraph 109 of the N.P.P.F indicates that permission should only be refused on highway safety grounds where the resulting cumulative impacts are severe.

- 5.6.5 LHA provided a list of suggested conditions in relation to the previous application, which secures a construction site management strategy (inc. wheel wash), further details of the driveway / public right of way resurfacing and works to create passing places, pedestrian intervisibility to the access, parking to be provided and maintained prior to occupation, and details of bin store / bin collection arrangements and dwell area to be provided. It is considered that all of these details can be secured by appropriate planning conditions in the interests of highway safety and conclusively the development is overall acceptable having regard to highways impacts / parking (policy CS18 and CS20 of the Core Strategy).

5.7 **Drainage / Flood Risk**

- 5.7.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from flooding. In respect of drainage, the application details that the development is to be connected to a package treatment plant for foul drainage and a sustainable drainage system to handle surface water.
- 5.7.2 Both the Councils **Design Services (DS)** team and **Yorkshire Water Services (YWS)** have been consulted on the application proposals, and YWS have not objected as the proposals do not include connection to any mains sewers. The DS team have requested that drainage details of how the applicant intends to dispose of surface water. They have indicated that a sustainable drainage system will be used, more precise details of which will be necessary.
- 5.7.3 An appropriate planning condition can be imposed on any decision issued to ensure more detailed drainage details are submitted for further consideration and approval. The use of a package treatment system for foul water disposal will need separate building regulations approval and is only acceptable if mains drainage is not available, however given the isolated location of the site, there are no mains drainage available within the normal expected travel distance and a treatment plant is therefore justified.

5.7.4 Given the scale of the development proposals (minor application) the **Lead Local Flood Authority** have not commented on the application and the Environment Agency raises no objections.

5.8 **Land Condition / Contamination / Noise**

5.8.1 The site the subject of the application is currently a combination of previously developed land /open land and former agricultural buildings and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.

5.8.2 The Council's **Environmental Health Officer (EHO)** has reviewed the proposals and commented that due to the previous land use (and issues considered for the replacement dwelling on the site adjacent) a phase I desk top study should be requested. The EHO is aware that gas protection measures were required to be installed at the adjacent dwelling due to the presence of coal mining in the area and therefore this will need to be considered following appropriate ground investigations. The EHO does not request any further conditions however given that the occupation of the existing farmhouse is not guaranteed to remain the as the applicant, working hours should be controlled condition to protect their amenity.

5.8.3 Notwithstanding the comments above it is noted that the **Coal Authority** initially objected to the application submission, due to the absence of an accompanying Coal Mining Risk Assessment (CMRA) as they did in relation to the previous application.

5.8.4 In relation to the previous application, the applicant /agent provided a copy of the coal mining report ascertained for the replacement farmhouse building in 2011 and they suggested that given the content of this report, that getting a coal mining risk assessment prepared would be abortive as they would still have to undertake intrusive site investigations to identify an unrecorded mining legacy.

5.8.5 Whilst the LPA would usually insist upon a CMRA being submitted, given the site history and the existing knowledge of development conditions for the new farmhouse adjacent it was previously considered that the applicants / agents requested is reasonable

and intrusive site investigations should be conditioned accordingly. The same considerations apply equally to the current proposals.

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

5.9.1 Having regard to the nature of the application proposals the development comprises the creation of 7 no. new dwellings and the development is therefore CIL Liable.

5.9.2 It is noted that the application proposals include the demolition of some existing buildings and also conversion of existing barns that are illustrated on the proposed plans to be re-used as studios for each dwelling and the bin / bike store. The footprint of the existing buildings can be deducted from the CIL liability calculation and also conversion of the barns to be retained is not CIL liable. The applicant / agent have not provided details of the footprint of the buildings to be demolished to date and therefore they have not been taken into account in the calculation below. The barns are excluded as their re-use results in a neutral CIL liability. If floor space details are provided the CIL liability can be adjusted in due course.

5.9.3 The site the subject of the application lies within the medium CIL zone and therefore the CIL liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</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 (permission)</b>	<b>Index (charging schedule)</b>	<b>CIL Charge</b>
<b>1173</b>	0	1173	£50 (Medium Zone)	307	288	<b>£62,519</b>

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

## 6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 29/03/2019 and by advertisement placed in the local press on 04.04.2019. As a result of the application publicity there have been no letters of representation received.

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

8.2 Given that the proposed development conflicts with the NPPF or with 'up-to-date' Development Plan policies, the merits of the case outweighed the policy objections and on balance, 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. The applicant /



agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation.

## 9.0 **CONCLUSION**

- 9.1 In principle a new residential development constitutes inappropriate development that does not generally accord with Green Belt policy. However in relation to the previously approved scheme, it was concluded that the very special circumstances in the case suggest that the proposal could fall under the exceptions set out in paragraph 89 of the NPPF (last bullet). Although the proposal does have a greater impact on the purposes of the Green Belt (particularly the first three bullet points) than the existing uses and buildings, this must be balanced with the significant potential tidying of the site and removal of the engine salvage business from the site and the opportunity to secure enhancements and to provide new homes, to boost the 5 year supply of land for housing.
- 9.2 The current proposal for a similar development (2 extra dwellings) but with no greater floor area and correspondingly, no greater impact on open-ness, is such that the previously agreed principles still apply. Given the position above the Council has considered the proposals the subject of the application against all remaining up to date development plan policies, including policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy. In addition consideration has been given to the wider National Planning Policy Framework (NPPF) and the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places'.
- 9.3 It is considered that the proposed development is able to demonstrate its compliance with policies CS1, CS2, CS3 and CS4 of the Core Strategy in so far as its ability to connect to social, economic and environmental infrastructure such that the development meets the definitions of sustainable development. The application submission is supported by the preparation of

assessment and reports which illustrates the proposed developments ability to comply with the provisions of policies CS6, CS7, CS8, CS9, CS11, CS13, CS18, CS19 and CS20 of the Core Strategy and where necessary it is considered that any outstanding issues can be mitigated and addressed in any subsequent reserved matters submission or any appropriate planning conditions being imposed.

10.0 **RECOMMENDATION**

10.1 That the application be **GRANTED** subject to the following conditions / notes:

**Conditions**

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.
  - Drawing Number 14:14:33 Rev A - received on 01 May 2019  
- Proposed Site Plan;
  - Drawing Number 14:14:30 Rev A - received on 01 May 2019  
- Proposed Ground Floor Plan;
  - Drawing Number 14:14:31 - received on 21 Feb 2019  
Proposed First Floor Plan;
  - Drawing Number 14:14:32 - received on 21 Feb 2019  
Proposed Elevations;
  - Drawing Number Un-numbered - 1/1250 Scale - Location Plan - received on 21 Feb 2019 - Proposed First Floor Plan;
  - Drawing Number 14:14:3 - received on 18 March 2019  
Proposed Plans/Elevations of Stable Conversion.
03. No development shall occur above floor-slab/D.P.C level until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

04. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
05. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.
06. No development shall occur above floor-slab/D.P.C level until a detailed scheme of improvement works to the Public Right of Way, together with a programme for the implementation and completion of the works, shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer may be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.
07. No part of the development shall be occupied until the arrangements for storage of bins and collection of waste have been provided, in accordance with a scheme to be agreed in writing by the Local Planning Authority, and the facilities shall thereafter be so retained for the designated purposes at all times.
08. No development shall take place, including any works of demolition, until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved plan/statement shall be adhered to throughout the construction period.

The statement shall provide for:

- parking of vehicles of site operatives and visitors

- routes for construction traffic
- hours of operation
- wheel wash facilities
- method of prevention of debris being carried onto highway
- pedestrian and cyclist protection
- proposed temporary traffic restrictions
- arrangements for turning vehicles

All as appropriate and it should be noted that this list is not necessarily exhaustive.

09. The dwellings hereby approved shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and/or re-enacting that Order), the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.
11. No development shall occur above floor-slab/D.P.C level or before the ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.
12. Work shall only be carried out on site between 8:00am and 6:00pm in any one day on Monday to Friday; 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.
13. In the event it is proposed to import soil onto site in connection with the development the proposed soil shall be sampled at source and analysed in a MCERT certified laboratory, the results of which shall be submitted to the Local Planning Authority for consideration.

Only the soil approved in writing by the Local Planning Authority shall be used on site.

14. Notwithstanding the provision of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved, nor shall the external studios or the studies within the dwellings be used as bedrooms, without the prior written agreement of the Local Planning Authority.
15. No removal of buildings, trees or shrubs shall take place between 1st March and 31<sup>st</sup> August inclusive, unless a competent ecologist has undertaken a careful, detailed check of buildings and vegetation for active birds' nests immediately before the building is demolished / vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.
16. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. The hard landscaping scheme shall take account of any root protection areas to retained trees / hedgerows on site and alternative measures of construction and finishes close to trees. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.
17. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

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

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

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

B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.

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

18. No development shall occur above floor-slab/D.P.C level in relation to the development hereby approved, until the existing industrial and storage use, in its entirety on both the red and blue land, has permanently ceased and the existing buildings removed.
- 19 A residential charging point shall be provided for each proposed dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. Each socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

## **Reason(s) for Condition(s)**

01. The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004.
02. 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. To ensure that the development can be properly drained and In the interest of satisfactory and sustainable drainage.
04. To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.
05. To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.
06. In the interests of highway safety.
07. In the interests of highway safety.
08. In the interests of highway safety.
09. In the interests of highway safety.
10. In the interests of highway safety.
11. The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.
12. In the interests of residential amenities.
13. To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.
14. In the interests of the amenities of occupants of adjoining wellings.



15. In the interests of biodiversity and to accord with policy CS9 of the Local Plan: Core Strategy 2011-2031 and the National Planning Policy Framework.
16. The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.
17. To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in the interest of public safety.
18. To deliver the improvements to the appearance of the area and to safeguard the amenity of the occupants of the proposed dwellings.
- 19 In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

### **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.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
03. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

04. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public right of way without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
07. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.
08. There is a Public Right of Way (Footpath 2 on the Derbyshire Definitive Map) in close proximity to the area the subject of the application. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.
  - Please note that the granting of planning permission is not consent to divert or a public right of way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is

obtainable from the County Council. Please contact 08456 058 058 for further information and an application form.

- If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.