

Case Officer: Chris Wright  
Tel. No: 01246 345787  
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File No: CHE/19/00600/RET  
Plot No: 2/5265

## ITEM 5

### RETENTION OF COVERED STORAGE AREA TO THE REAR AND SIDE OF THE PREMISES AND CHANGE OF USE FROM LIGHT INDUSTRIAL USE (B1 CLASS) TO A SHOP (A1 CLASS) AT 1 WHARF LANE, STAVELEY, CHESTERFIELD

#### 1.0 CONSULTATIONS

|                         |   |
|-------------------------|---|
| Highways DCC            | No objection to structure but an objection to the change of use, due to adverse impact on the safe and efficient operation of the public highway.                               |
| Ward Members            | 4 comments received from Councillors D Collins and L Collins on the grounds of impact on highway safety and negative impact on neighbouring residents of newly built structure. |
| Town Council            | No comments received  |
| Environmental Services  | No objection  |
| Derbyshire Constabulary | Not supportive of scheme due to its impact on highway safety  |
| Neighbours/Site Notice  | 36 letters of representation received (on behalf of 24 people). All of these are objections on multiple grounds, mostly to the change of use.                                   |

1.1 The proposal was publicised by neighbour letters and a site notice.

#### 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is currently being used for the proposed use as this is a retrospective application. The previous approved use of the site was a light industrial use (clothing manufacture, B1 use class), although it is accepted that there has been several uses on site that were not a light industrial use such as a baby clothes shop, a tattoo parlour, tool hire and a computer shop. These uses were not the subject of planning applications and were therefore unauthorised for planning purposes. The uses were not in place for longer than 10 years, and cannot therefore be defined as lawful uses.
- 2.2 The buildings are single storey brick built structures on the junction of Wharf Lane and Lowgates in Staveley. There appears to have been two phases of development of the buildings on site with the original building having a hipped roof whilst the secondary structure has a flat roof section fronting Lowgates and Wharf Lane. The building was initially constructed as a Co-operative store however over the last 30 – 40 years the site has been divided into two or three separate units at different phases of time. The site is currently functioning as a single unit.
- 2.3 The area is a mixed use area comprising of a mix of residential and commercial uses. There are houses to the north, south and west. With a train track to the east and public house and shop within the close vicinity.
- 2.4 To the rear of the site there is a driveway area suitable for parking of employees vehicles and smaller delivery vehicles. The area to the rear and side was previously uncovered. There are double yellow lines surrounding the front of the site and corner with Wharf Lane, there are also wide footpaths surrounding the site. The dwellings to the north of the site generally don't have off-street parking resulting in the street being utilised for parking by the residents.

### **3.0 SITE HISTORY**

- 3.1 CHE/1084/0617 - Permission for alterations and extensions to form D.I.Y. shop – Conditional Permission – 10/10/84
- 3.2 CHE/0389/0219 - Permission for change of use of premises to storage and manufacturing of ladies fashions – Conditional Permission – 23/05/89
- 3.3 CHE/0493/0222 - Use of property for manufacture of clothing – Conditional Permission – 22/06/93

- 3.4 CHE/0300/0203 - One wall mounted advertisement display unit – Conditional Permission – 12/05/00
- 3.5 CHE/04/00065/OUT - Outline application for erection of 6 apartments – Conditional Permission – 26/04/04
- 3.6 CHE/15/00751/COU - Change of use from B1 to A5 hot food takeaway – Refused – 23/02/16

#### **4.0 THE PROPOSAL**

- 4.1 The applicant seeks retrospective consent for the change of use of the premises from a light industrial use (B1 Use Class) to a shop (A1 Use Class) and the erection of a rear extension extending to approximately 260 square metres. The extension is 6m deep, 9m wide and 2.65m in height, which is 0.85m above the existing brick wall on the site boundary. The extension has a flat roof and does not appear to have any guttering to the outside of the extension, which adjoins the neighbouring sites. It is to the rear and side of the store and is constructed out of metal sheeting with a tin roof of mixed colours, with light grey, dark grey and black in no particular pattern.
- 4.2 The proposed opening hours would be 10am to 5pm Monday to Friday and 10am to 4pm on Saturdays. The shop would not be open on Sundays.
- 4.3 It is stated that deliveries would arrive in a van sized vehicle. It is also considered that there is space for 2-3 vehicles on the side driveway and some space on the road to the side of the site.
- 4.4 There are no external changes to front and side of the store fronting Wharf Lane and Lowgates.
- 4.5 The officer required further information in relation to the functioning of the business and the agent stated that:
- the entire store is open to visiting members of the public for the duration of the hours which the premises are open,
  - the main items are sold by the business are hydroponics items,
  - customers collect these items themselves,
  - deliveries range from 2-20 per day, with 70% in vans and none in HGV,
  - no deliveries arrive in HGVs.

Further clarity has been sought regarding the exact specifics of the nature of the business in relation to deliveries and the products sold in the store, but there has been no reply on this.

## **5.0 CONSIDERATIONS**

### **5.1 The Development Plan**

5.2 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. The Local Plan 2018-33 has been submitted for examination, but not formally adopted; some weight should be given to the policies within this document.

### **5.3 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
- CS13 Economic Growth
- CS15 Vitality and Viability of Centres
- CS16 Retail
- CS18 Design
- CS20 Influencing the Demand for Travel

### **5.4 Chesterfield Borough Local Plan – Submission Version (December 2018)**

- LP1 Spatial Strategy
- LP2 Principles for Location of Development
- LP3 Presumption in favour of sustainable development
- LP9 Vitality and Viability of Centres
- LP10 Retail
- LP21 Design
- LP23 Influencing the Demand for Travel

### **5.5 National Planning Policies**

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

- 6. Building a Strong, Competitive Economy
- 7. Ensuring the Vitality of Town Centres
- 8. Promoting Healthy Communities
- 9. Promoting sustainable transport
- 12. Achieving well-designed places

## **6.0 Key Issues**

### **1 Principle Of Development**

### **2 Design and Amenity**

### **3 Highway Safety and Parking Provision**

## **6.1 1. Principle of Development**

6.1.1 The site is an existing mixed use site, with previous planning permission related to light industrial works however the site has history for retail uses which were defined as a shop use. In the existing Local Plan the site is outside of a local centre, but during the emerging Local Plan the site is a part of the Lowgates East Local Centre. The site is also within 800m walk to Staveley Town Centre.

6.1.2 Policy CS1(Spatial Strategy) sets out that the overall approach is to concentrate new development within walking and cycling distance of centres and focus on areas that need regenerating. The site is within 800m of a town centre location, and is within easy walking and cycling distance of a residential area surrounding it, and there are regular bus services to Staveley and Chesterfield town centre and other areas such Old Whittington, New Whittington and Brimington. On the basis that the site is regenerating an empty unit and will ensure that a business is occupied, the proposal is considered to contribute towards the delivery of the Council's Spatial Strategy.

6.1.3 Policy CS2 (Principles for Location of Development) indicates 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.

The policy identifies that all development will be required to have an acceptable impact on, amongst other things, the impact on the amenity of adjoining occupiers.

- 6.1.4 Having regard to the policy framework set out above, the proposal would, as previously discussed, deliver the Council's Spatial Strategy. The change of the site from a mix of units including a previous permitted use as a light industrial use to an A1 Use Class is not considered to be a significant change in the site's use, but this depends on the possible impact to the amenity of the local area and how the shop actually functions.
- 6.1.5 Due to the location of the site it is possible that staff or customers can visit the site via public transport or by walking or cycling, especially if they live within the surrounding area. The site is also conveniently located for access by public transport. The proposal is to be more of a garden centre type use, which is defined as an A1 use class. The use is currently operating and neighbouring residents have reported how they consider the business is functioning. The use sells larger bulkier items which can require larger vehicles (such as HGVs) for delivery or collection. On this basis the use which is operating requires and relies on regular larger vehicle trips to and from the store and this is a main issue considered in the highways section of the report.
- 6.1.6 With regard to the emerging policies from the Submission Local Plan the Lowgates East area would be defined as a local centre where such a use would not be inappropriate.
- 6.1.7 A general A1 shop use at the site would therefore not conflict with local plan and emerging local plan policy and on the basis of its sustainable location would not be inappropriate.

**6.1.8 Strategic Policy Comments:**

*Principle of Development and Sequential Test.*

*The A1 unit is considered to be a main town centre use and falls outside of an existing centre (as defined within Core Strategy Policy CS15).*

*Normally a sequential test should be applied as set out in policy CS16 and the NPPF (Para. 86) which states that Local Planning Authorities "should apply a sequential test to planning applications for main town*

*centre uses which are neither in an existing centre nor in accordance with an up-to-date plan". It is for the applicant to demonstrate compliance with the sequential test, but it should be proportionate and appropriate for the given proposal.*

*The site is included within the proposed 'Lowgates East' Local Centre as defined within the Submission Local Plan, published in January 2019. The presence of a convenience store, pub and cafeteria within the centre boundary indicates that Lowgates East has the character and function of a local centre.*

*As the Local Plan is at an advanced stage of preparation and as no objections to the allocation of the Lowgates East Local Centre have been received, it is reasonable to afford the allocation of this Local Centre a significant amount of weight in decision making. Having regard to the emerging allocation, it would be inappropriate to request a sequential test.*

#### *Other Relevant Policies:*

*Policy CS13 seeks to ensure that the change of use of existing business / industrial premises will not lead to a quantitative deficiency in the supply of employment land and that it will not inhibit existing or future activity on adjacent sites. The proposed conversion to an A1 unit falls within a local centre and is unlikely to inhibit future employment uses that would be acceptable in this location (B1a office). The small loss of employment floorspace is not considered to be a material consideration.*

*Given the proximity of residential properties, attention should be paid to the impact of the proposed use on adjoining residents in accordance with policy CS18 (d), which states that "Development will be expected to...have an acceptable impact on the amenity of users and Neighbours". Conditions controlling the hours of operation may be appropriate if planning permission is granted.*

*Other matters such as the design of the ancillary storage area, future and existing occupiers' amenity and highways safety should also be considered in detail by development management.*

#### *Community Infrastructure Levy:*

*CIL would be chargeable at £80 per m<sup>2</sup> of the gross internal floorspace unless the applicant is able to provide evidence that the property*

*qualifies as an 'in-use' building under the CIL Regulations. There is no information on the recent use of the floorspace contained within the application.*

## **6.2 2. Design and Amenity**

6.2.1 Within CS18 it 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”*.

6.2.2 Within CS2 it 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”*.

6.2.3 In terms of the highways impact this is considered separately in the next section.

### **Visual Impact of the extension**

6.2.4 In terms of the change of the building, the visual impact on the street scene is not considered to have any significant negative impact since the changes relate to areas of the building which are not visible from the streetscene. In terms of the proposal integrating with the character of the site and the surroundings and appearance, the extension of the property, is a poorly constructed metal sheet-covered structure, which is unsympathetic to the local area in terms of materials and style, and its industrial finish is out of character for the area. The terraced dwellings within close vicinity to the site have small gardens and reasonably small houses and the positioning of the unattractive structure has a significantly negative impact on the visual amenity of the area. The existing character of the rear garden areas is for well-built red brick boundary walls. The proposal adds 0.8m height (at its highest) above the height of the brick wall which is clearly visible from outside the site. The structure is considered to be of poor construction used a random mixed of coloured metal sheeting which conflicts with the existing brick wall. The photos below show the structure concerned.



**View from no.3 and no.5 Wharf Lane**



**View from no.23 Lowgates**



## **Residential Impact of the scheme**

- 6.2.5 In terms of overlooking or overshadowing the extension is not considered to have a significant impact on the surrounding dwellings. Although it is positioned to the south of no.3 Wharf Lane the size of the extension is not considered to lead to significant harmful loss of natural daylight or overshadowing.
- 6.2.6 There have been several comments received from local residents about the residential impact of the scheme. This is linked to the working hours of the business and the noise associated to the site. The extension that has been built has an outer layer of single sheet of metal, but is used as internal space for storage, so any deliveries to the business are likely to include lots of activity in this space. This has the consequence that the residents that have gardens nearby to the rear of the site (no.3 and no.5 Wharf Lane and no.21 and no.23 Lowgates) are likely to be disturbed by noise during delivery times, especially if these are outside of working hours (9am - 5pm). The application doesn't include any specific information regarding improving sound insulation from the site. Prior to the extension being built this part of the site could have been used for the delivery of materials into this business, but now they can be kept undercover in this area. The previous/existing use as a shop was unauthorised, but this application seeks to regularize the use and specific opening hours, which are different from the hours previously worked.
- 6.2.7 The applicant/agent has stated that the proposed operating hours of the business do not include evenings and nights. This also includes delivery hours. The proposal now includes hours that are considered to be acceptable so the proposal could not be refused on the basis of the impact as a result of the running of the business during these proposed hours. The delivery of items to the store can take place throughout the day, with 2 to 20 deliveries a day, so the safe parking and manoeuvring of delivery vehicles and customer vehicles is considered to be more of an issue that could impact on residential amenity, as limited safe parking availability and turning on site has the potential to impact the residential amenity of local people due to its impact on highway safety. The officer has requested further assurances and information to demonstrate how the current business will change to ensure that the business does not result in parking of vehicles on the footpath or in unsafe locations around the site which could impact local residents however no assurances have been received.

6.2.8 The proposal is considered to have an unacceptable impact on the visual amenity of the local area as the design of the rear structure is considered to have a significant negative impact to the amenity of the local residents of 3 Wharf Lane and 23 Lowgates, as it is out of character for the area and considered to be of a poor design. It would extend to 0.8m above the existing wall using materials and style suitable to industrial developments. The visual impact of the poor design of the extension is considered contrary to policies CS2 and CS18.

### 6.3 **3. Highway Safety and Parking Provision**

#### Local Conditions/Parking

6.3.4 The site has several constraints which make parking and manoeuvring problematic. To the front of the site and round the corner into Wharf Lane there are double yellow lines, then there are unmarked/designated spaces available on Wharf Lane. To the north of the site there is a street of terraced houses with limited off-street parking availability and these residents utilise the road side in front of their houses. This road can be busy with parked vehicles, and this restricts availability for staff, customers and delivery vehicles in connection with the application site premises. There is a driveway to the rear of the site, which is 2.4m wide and 9.6m in length however this is substandard for parking having regard to the enclosing walls either side, limiting the ability to allow exit from a vehicle. Two vehicles or one van could potentially park in this space, although due to the narrow width care would need to be taken. To the front and side of the site the business appears to use footpath space for the parking of vehicles, as witnessed by the officer and in photos from local residents.





6.3.5 The Highways Authority has provided comments on the scheme stating that:

*It's noted that the proposals now involve Change of Use of the premises from light industrial (B1) to a shop (A1) in addition to the originally proposed retention of an existing cover of a storage area.*

*As you will be aware, the Highway Authority raised concern in its response of 28 January 2016 (Word document copy attached for information) to an earlier application for Change of Use of part of the same premises to a Hot Food Takeaway (ref:- CHE/15/00751/COU). Whilst the revised application is for a shop rather than takeaway, it's considered that the perceived implications of the development proposals would be likely to be the same and the issues highlighted within the aforementioned response remain applicable.*

*Therefore, whilst there is no objection to retention of the covered storage area (subject to no loss of any existing areas dedicated to off-street parking), it's considered that the revised proposals would be likely to have an adverse affect on safe and efficient operation of the public highway and recommended that they are refused on the same highway Grounds as the earlier application.*

6.3.6 The Highways Authority provided comments for the application for hot food takeaway for application CHE/15/00751/COU resulting the following reason for refusal:

*In the opinion of the Local Planning Authority it is considered that the proposal for hot food takeaway would be likely to increase demand for on-street parking where there is already considerable competition and lead to vehicles performing awkward manoeuvres within a classified highway in the vicinity of a junction to the detriment to highway safety. The proposal would also increase the likelihood of vehicles waiting, or being parked, on sections of the carriageway and pavement that are currently subject to double yellow line parking restrictions, again, a situation considered prejudicial to safe operation of the highway. The proposal therefore fails to accord with the requirements of Policy CS18 (g) of the Local Plan: Core Strategy, which expects developments to provide adequate and safe vehicle access and parking.*

#### 6.3.4 Local objectors have commented that:

- The applicants use HGVs to deliver items sold from the unit.
- HGVs and other delivery vehicles block and obstruct Wharf Lane for other vehicles,
- vehicles related to the business park on double yellow lines to the front and corner of the site, which blocks exit visibility on a busy road junction,
- vehicles related to the business park on the footpath area to the front/side of the site, which impacts pedestrian safety surrounding the site,
- delivery vehicles have to turn around on the turning head on the cul-de-sac at the end of the road;
- deliveries related to the business occur at unsociable hours,
- delivery vehicles are parked unsafely in the area.

Local objectors have also provided photos of inappropriate parking to back up their comments.

6.3.5 The business is known as Staveley Garden Centre, but it does not sell the traditional items sold in a garden centre such as plants and garden tools. After a site visit the officer considered that the business sold items such as lighting, compost and other items for the hydroponic growing of plants. From comments and photos from local people it appears that deliveries are made using larger vehicles such as HGVs and vans to drop off materials and items which are sold to customers or collected in smaller vans.

- 6.3.6 On a site visit the officer observed the parking of vehicles on the footpaths adjacent to the building. Members of the public have also commented on this. This is on the frontage of the site and these are not designated parking spaces. It is considered that this leads to a negative impact on the visual amenity of the area, as it creates a cluttered effect on the area, especially mixed with the additional parking of vehicles related to the business within the vicinity of the business. Local residents have provided comments that show evidence that parking related to the business is not very considerate to local residents, with this either blocking the road or providing an obstacle in the footpath. It also has an impact on local people who pass by the site, as it has a negative effect on their relationship with the local area. The on-street parking available on Wharf Lane is not designated for any specific houses or the business, so residents of the houses, their visitors as well as parking related to the business and other businesses in the area may park on any part this stretch of road, including in front of the business.
- 6.3.7 Within the submission it was stated that there was parking on the driveway for 2-3 vehicles however on the site visit and from residents' comments / photos it is apparent this area is also used as temporary storage area for some of the materials delivered to the site, so that smaller vans can deliver or collect materials whilst parking in the vicinity. It is considered that 1 van may be able to park in this location, or 1 to 2 cars, if parked appropriately. As the business appears to function more as a distribution centre rather than as a traditional shop, this relies on the rear driveway area to be able to accept deliveries into and deal with orders out of the business site, so it is not envisaged that employees or work vehicles could park here without impeding this function of the business.
- 6.3.8 It is considered that the site does not offer a suitable level of parking for staff, customers and deliveries/servicing, and that due to how the business functions at present this leads to demand for on street parking which in itself is having a negative impact on highway safety in the local area. Vehicles related to the business park on double yellow lines and on the footpath, near to the corner of a junction with Lowgates to the detriment of available visibility and highway safety. Whilst it is accepted that the agent has stated that HGVs will not be delivering to the business in the future it is considered that it would be difficult to try to control this aspect of the business operation through planning legislation, in order to address this concern. The particular operative needs of this business operation would be considered to be more acceptable within an industrial location that has access to parking for larger vehicles and

multiple incomings and outgoings, not within a small local centre adjoining a residential area such as this, which has a busy main road in front of it and limited parking capacity.

6.3.9 In summary the proposed development is considered to lead to a negative impact on highway safety in the local area, as the scheme results in an adverse impact on highway safety in the local area which includes the parking of vehicles on the pavement, double yellow lines and competing with local residents for parking spaces on a street with limited parking arrangements. As the business currently functions on site the local people have based their objections on actual events of the behaviour and actions of the customers, staff and delivery drivers related to the business. It has led to the blocking of the road, numerous incidents of inconsiderate parking and the blocking of visibility splays when exiting a junction which already has compromised visibility. This highlights that this site is not a suitable location for the business, as it is currently operating and appropriate planning controls could not be reasonably be imposed to control the operation to a level that would be acceptable and this results in the need for the planning application to be refused permission in relation to policies CS2, CS18 and CS20.

## 7.0 **REPRESENTATIONS**

- 7.1 36 letters of objection have been received from 24 separate dwellings. Some of these comments were provided prior to the change of use element of the scheme being included in the application, but the comments were still relevant to this issue.
- 7.2. The residents of the below addresses have objected to the scheme:  
- 2b; 3; 4; 5; 6; 7; 8; 10; 12; 14; 21; 27; 29; 33; 35; 41; 43; 45; 51; 53 Wharf Lane.  
- 21 and 23 Lowgates.

The residents questioned whether the stated working hours could be kept to, because in their experience large HGVs were used for deliveries, the driveway was not big enough to allow a HGV parking, the business functions as a warehouse/distribution not a shop and this issue should be investigated further, vehicles related to the business block the footpath and road which leads to a highway and pedestrian safety issue and the unsafe parking of vehicles on double yellow lines and the pavement blocks to safe egress of vehicles out of Wharf Lane. Also, due to the lack of available turning facilities HGVs have been seen to reverse from Wharf Lane onto a busy road.



- 7.3 Other points raised have included the noise coming from the business during late night working, the poor construction of the extension leading to rain water spilling over onto neighbouring land, highway and pedestrian safety, poor design and materials of the extension as well as the loss of light from the extension to neighbouring gardens and littering.
- 7.4 The resident of no.3 Wharf Lane objected to the scheme, as they allege the extension damages their property (their side wall) and causes them distress and disturbance to their home, finances and family, it also does not operate within the stated hours and causes noise and disturbance at night time, as well as this the business impact highway safety in the area with HGVs blocking access on Wharf Lane and vehicles blocking the pavement.
- 7.5 Two local residents have not provided their address but have objected due to its impact on highway and pedestrian safety.
- 7.6 Councillors Lisa Collins and Dean Collins have provided comments. Cllr L Collins has stated that the applicant has no respect for their neighbours or the planning process, the extensions impacts the adjacent neighbours which blocks their light and works that have occurred were during anti-social hours with loud banging. The functioning of the business leads to an impact on highway safety in the area. Councillor Dean Collins re-iterated the previous comments that they had concerns over the working hours of the business and the business leads to an impact on highway safety. In further comments Cllr L Collins has re-iterated the comments about highway safety and that the scheme is not a shop but a distribution centre and stated the unacceptable working hours at present.
- 7.13 The issues are dealt with within the report.

## **8.0 Community Infrastructure Levy**

- 8.1 In the event that a recommendation for approval were put forwards then the issue of a proposed A1 Retail use would bring the need to consider the Community Infrastructure Levy (CIL) which may be applicable.

## **9.0 HUMAN RIGHTS ACT 1998**

- 9.1 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.

9.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme.

9.3 The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application.

9.4 The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary.

9.5 The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.

9.6 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. The applicant has a right of appeal against a refusal.

## 10.0 **CONCLUSIONS**

10.1 The development is an inappropriate use of land and should be refused in terms of the impact on visual amenity, the neighbours' outlook and highway safety contrary to the Development Plan and NPPF.

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

11.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the February 2019 National Planning Policy Framework (NPPF).

11.2 Given that the proposed development would conflict with the revised NPPF (February 2019) and with 'up-to-date' Development Plan policies,

it is not considered to be 'sustainable development' and there is a presumption on the LPA to seek to refuse the application. The LPA has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

## 12.0 **RECOMMENDATION**

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

1. The constraints of the site and the addition of the rear extension result in no parking for vehicles on site with very limited parking for staff and customers either on site or in the immediate vicinity. The area is characterised by terraced dwellings which depend on the street for parking. As a result staff, deliveries and customers to the site are forced to park on the surrounding highway including on the pavement, at a location which has double yellow lines in place to prevent parking and to protect the visibility of road users in the area. The extension intensifies the business activity at the site, where there is already a deficiency in available parking, and therefore leads to a proliferation of inappropriate parking and highway obstruction that is against the best interests of highway safety. In this context it is considered that the development is contrary to policies CS2, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider provisions of the NPPF.
2. The rear extension is considered to have an unsympathetic relationship with the existing building and surrounding character. The style and materials of the extension do not harmonise with the existing palette of the surrounding area and the metal sheeting finish appears to be of a temporary industrial nature. The structure protrudes above the domestic boundary treatments of no. 3 Wharf Lane and no. 23 Lowgates to the detriment of their outlook. It is considered that the development is out of keeping and incongruous in the local area, and which harms visual amenity, which is contrary to Policy CS18 of the Chesterfield Local Plan: Core Strategy 2011 – 2031, paragraph 130 of the revised National Planning Policy Framework and the new National Design Guide 2019.