

Case Officer: Chris Wright  
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File No: CHE/19/00719/FUL  
Plot No: 2/1273

### Item 5

#### Two storey detached house with attached garage 152 Hady Lane, Hady, Chesterfield, Derbyshire for Mr and Mrs Bailey

#### 1.0 CONSULTATIONS

DCC Highways	No objection subject to condition and additional information.
Urban Design Officer	No formal comments provided.
Environmental Services	No objection subject to hours of work and air quality conditions
Yorkshire Water Services	No comments provided.
Coal Authority	No objection, subject to pre-commencement conditions.
Tree Officer	No objection subject to condition.
Chesterfield Cycle Campaign	No comments provided.
Derbyshire Wildlife Trust	Support the findings of the addendum ecology report.
Design Services	No objection subject to the inclusion of pre-commencement conditions in relation to soakaways and drainage.
Ward Members	No comments.
Site Notice / Neighbours	No comments

## 2.0 **THE SITE**

- 2.1 This application site comprises of land which is to the south-east of the overall development site which has been agreed on Hady Lane. It has a mature hedge to the front/east Hady Lane boundary and several mature trees to the rear/west. It is currently part of a grassland area.
- 2.2 The site is a part of a larger site which benefitted from a planning permission for 10 dwellings. The outline indicated 9 houses to the northern section and 1 house to the southern section. These dwellings are either being built or have been built.
- 2.3 The site is approximately 1.3km to the east of Chesterfield Town Centre within the ward of St Leonards. The sites adjoin Hady Lane, which is an unclassified highway and minor road although is a busy through road. Hady Lane joins the classified Hady Hill (A632) 500m to the north and Hady Hill links Chesterfield Town Centre to the settlement of Calow and beyond. Hady Hill also serves Chesterfield Royal Hospital which is approximately 1.0km to the north of the site. To the south east, Hady Lane joins Calow Lane, a classified highway linking Calow and Hasland.
- 2.4 To the east of the site is Hady Lane and the urban area of Hady, characterised generally by two storey dwellings set back and down from the highway. There is a variety of external building materials present in the streetscene, with render, red brick and beige brick walling present and also a mix of red and brown concrete roofing tiles.
- 2.5 The site would not fall within the definition of previously developed land in the National Planning Policy Framework (NPPF) and so can be described as 'greenfield'.

## 3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/18/00224/REM - Re-submission of all matters reserved application CHE/17/00281/REM - Approval of reserved matters of CHE/15/00594/OUT Construction of up to 10 dwellings –

CONDITIONAL PERMISSION granted for development of 9 dwellings on land to the north fronting Hady Lane – 07/08/18

- 3.2 CHE/18/00009/REM - Approval of reserved matters of CHE/15/00594/OUT(Construction of up to 10 dwellings) for erection of one dwelling – CONDITIONAL PERMISSION – 11/04/18. This dwelling was on land to the south of the current application site.
- 3.3 CHE/17/00281/REM - Application for approval of all reserved matters (access, appearance, landscaping, layout and scale) for planning application – WITHDRAWN – 30/10/17
- 3.4 CHE/15/00594/FUL – Outline planning application for up to ten dwellings at land surrounding no. 146-152 Hady Lane – CONDITIONAL PERMISSION – 08.12.15
- 3.5 CHE/07/00941/FUL - Land Adjacent To Farm Cottage 148 Hady Lane - 2 Houses and garages (Re-submission of CHE/07/00416/FUL) - GRANTED 12.03.2008
- 3.6 CHE/07/00416/FUL - Land Adjacent To Farm Cottage 148 Hady Lane - 2 Houses, triple garage and double garage - REFUSED 06.08.2007 - APPEAL DISMISSED
- 3.7 CHE/04/00121/FUL - Land Adjacent To Farm Cottage 148 Hady Lane - Erection of three 3 detached houses with garages – GRANTED - 04.05.2004
- 4.0 **THE PROPOSAL**
- 4.1 The application submitted is a full application for a detached one and a half storey dwelling sited on land which is currently grassland/dis-used land.
- 4.2. It would be for a large 3 bedroom house that would include an air source heat pump and Solar PV panels as well as battery storage to ensure it utilises low levels of energy from the national grid for electric and heating supply.
- 4.3 It would utilise an existing access to the south and would include a new access to the north. The southern access would be shared with the residents of the new dwelling on land to the rear of 152

Hady Lane, the new access would remove a section of hedgerow to enable this.

- 4.4 The dwelling has a central two storey section with gable ends projecting from either side, an intersecting gable section to the north of this and then two separate single storey sections from either side. The northern section would have a hipped roof and garage/study section to the south would have pitched roof. The precise materials have not been made clear during this process.
- 4.5 The scheme would have several different private amenity areas including patios, balconies and garden space. The property would have well over 70 sqm of garden space available to use and it would have parking spaces and turning space for over 4 vehicles.
- 4.6 The proposal includes soft landscaping features but specific information has been missing, especially regarding a hedge to the north of the property, which has required further details as several drawings contradict. A revised drawing has clarified this, to show one hedge in-between the new dwelling and no.152 Hady Lane and this hedge would be a 2m high willow fence/hedge. The exact quantity of hedge removed from the new highways access is also unclear, as in some drawings the hedge is completely removed from the exit to the north of the site, whilst in other drawings it is retained after the exit.

## 5.0 **CONSIDERATION**

- 5.1 Having regard to the nature of the application proposal these policies are considered to be relevant/for discussion:

### **Saved Local Plan policies (2006)**

- EVR2 (Open countryside and other land)

### **Core Strategy 2011-2031:**

- CS1 (Spatial Strategy),
- CS2 (Location of Development),
- CS3 (Presumption in favour of Sustainable Development),
- CS5 (Renewable Energy)
- CS6 (Sustainable Design),
- CS7 (Management of the Water Cycle),
- CS8 (Environmental Quality),

- CS9 (Green Infrastructure and Biodiversity),
- CS10 (Flexibility in delivery of Housing)
- CS18 (Design)
- CS20 (Influencing the Demand for Travel)

### **Submission Local Plan 2018**

- LP1 (Spatial Strategy)
- LP2 (Principles for Location of Development)
- LP4 (Flexibility in Delivery of Housing)
- LP12 (Infrastructure delivery)
- LP17 (Biodiversity, Geodiversity and ecological network)
- LP21 (Design)
- LP23 (Influencing the demand for travel)

5.3 The wider National Planning Policy Framework (NPPF 2019) also applies. In addition the Council's Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

### 5.4 **Principle of Development**

5.4.1 *The strategic planning team has commented that ....the current development plan for Chesterfield Borough consists of the Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Borough Local Plan (2006). However, there is also the emerging Local Plan (2018 to 2035) – this is currently being examined and was the subject of hearing sessions in October/November 2019. The Inspectors' initial response has indicated a number of modifications that are currently being prepared for consultation. Weight should be given to the emerging policies in accordance with the criteria of para 48 of the NPPF. Where this is relevant to the determination of this application it is highlighted below.*

*The application falls within land covered by the Open Countryside designation (saved policy EVR2) of the Replacement Chesterfield Borough Local Plan 2006. Policy EVR2 is considered 'out of date' and little weight should be given to it in determining the application.*

*The key policy considerations in determining this application will therefore relate to policies CS1, CS2, CS10 and CS20 of the Core Strategy. Given its proximity to other dwellings on Hady Lane I do*

*not consider that Paragraph 79 of the NPPF is relevant in this case.*

*The site also falls within the extent of the 'Urban Area' proposed as a modification to the emerging Local Plan Policies Map, for the application of emerging policy LP4. The implications of this and weight to be given to the emerging plan are discussed further below.*

*The council can demonstrate a five year supply of suitable housing sites and the main policies for the determination of the application are considered up to date and in accordance with the NPPF. Paragraph 11(d) of the NPPF (the presumption in favour of sustainable development) is therefore not engaged and the application should be determined according to the policies of the Local Plan and other material considerations.*

*I note that the application falls within the area covered by outline planning permission CHE/15/00594/OUT. This permission was granted at a time when the council was unable to demonstrate a five-year supply of deliverable housing sites, and the full allowance of dwellings permitted under the outline have now been completed or are under construction. I therefore give little weight to this permission in terms of interpreting planning policy.*

*Policies CS1 and CS2 seek to concentrate new development within walking and cycling distance of centres. Policy CS20 seeks to maximise walking, cycling and the use of public transport through the location and design of development. Paragraph 103 of the NPPF also states that planning should actively manage patterns of growth to support the use of public transport, walking and cycling. The council's Residential Design SPD indicates 800m to a centre is considered 'walkable'. The application site is well beyond 800m to the nearest centre (Hasland is over 1.4km and Chesterfield Town Centre over 2km by foot). There is no GP provision within a reasonable walking distance. It is not located on the Strategic Cycle network.*

*The site is within walking distance via a safe, convenient and lit route of its normal area Primary School, Hady Primary School, a small open space with a Locally Equipped Area for Play within walking distance on Barnes Road, and a small rank of shops nearby on Lee Road.*

*The site is relatively well served by public transport, with service 80 providing connections to Chesterfield Town Centre on a half hourly service during weekdays.*

*Policy CS10 of the Core Strategy seeks to restrict housing led development on greenfield sites where the council can demonstrate a five-year supply of suitable housing sites. The council can also demonstrate a five-year supply of suitable housing sites. The proposal is therefore in conflict with policy CS10.*

*The replacement policy for CS10, LP4, moves the emphasis purely from greenfield sites to sites 'outside the urban area'. A modification to the emerging policies map has been prepared at the request of the Local Plan Inspectors establishing the extent of the urban Area, which would include the application site. Some limited weight can be given to the proposed boundary as the emerging plan has reached an advanced stage of preparation, the general approach of the policy is considered in alignment with the NPPF, but the boundary has not yet been the subject of consultation (which is expected to begin in March of this year following a report to the council's Cabinet on 25<sup>th</sup> February). It is relevant in demonstrating the direction of travel for emerging policy. I would note that, if applied as proposed to be modified, the proposal would not be in conflict with policy LP4, although this would not exempt it from consideration under policies CS1 and CS2 and their successor emerging policies LP1 and LP4.*

*Should planning permission be granted, the adopted and emerging Local Plan policies would require the following:*

- *Electric Vehicle charging provision (one point per property) – secured by condition*
- *A condition requiring measures to result in a net gain of biodiversity through planting, nesting and roosting provision*

*The development would be CIL liable. The site falls into the CIL medium zone. With index linking the CIL rate (as of February 2020) is currently £57.99 per sqm gross internal floorspace.*

#### 5.4.2

In summary the council can demonstrate a five-year supply of deliverable housing sites, and the main policies for determining the application are not 'out of date'. The presumption in favour of sustainable development set out in paragraph 11(d) of the NPPF is

therefore not engaged. The proposed development conflicts with policy CS10 of the adopted Local Plan Core Strategy as it would result in the loss of a greenfield site. It would not however conflict with the replacement emerging policy LP4, to which some limited weight should be given.

It is also in conflict with policy EVR2 but no weight should be accorded to this conflict as the policy is considered to be 'out of date'.

The application site is not within walking distance of a centre as required by the spatial strategy (as described in policy CS1), however there are a range of services, including a primary school within walking distance of the site, and the site is well served by public transport. Combined with the small scale of the development (a single dwelling, albeit in addition to those already being delivered under CHE/15/00594/OUT and subsequent reserved matters permissions), and being closely related to other dwellings, the potential conflict with the overall aims of the Spatial Strategy are limited.

- 5.4.3 In regards the emerging Local Plan policy LP4 this site would be defined within the 'urban area'. The site is also within and a part of the larger housing site that has previously been granted and which is under construction. The planning permissions granted have agreed 10 dwellings however the dwelling to the south has been constructed on only a part of the plot leaving sufficient room for an additional dwelling. This application cannot therefore be a reserved matters submission however it is clear that the application site has already been accepted for new housing development.
- 5.4.4 As highlighted above the scheme does not align with the Council's current local plan policy CS10, but it is aligned with a comparable policy in the emerging local plan LP4. In the existing policy it is defined as being within the countryside whilst in the emerging policy it is defined as being within the urban area. The emerging local plan has limited weight in this consideration.
- 5.4.5 The site has 13 dwellings to the north, a housing estate to the east and a separate dwelling to the west such that a certain amount of the "countryside" characteristics of the western side of Hady Lane have been lost over the last 15/20 years. The proposal would further lead to the loss of these characteristics with increased urban sprawl however it should also be considered that this site is part of a larger area that got outline planning permission for 10



houses, and one of these houses could have been positioned in the position of this dwelling, with one less dwelling positioned to be north of no.146-152.

- 5.4.6 In the NPPF the document refers to sustainable development and low carbon developments and the scheme is compliant with the desire to achieve such developments. It also considered to be an attractive dwelling that proposes to utilise several low carbon mechanisms for electricity and heat, which is a large positive for the scheme.
- 5.4.7 On balance the scheme is considered to be appropriate and generally in line with the character of development being undertaken on this side of Hady Lane. The development has been advertised as conflicting with the development plan however no adverse comments have been received as a result.
- 5.5 **Residential Impact**
- 5.5.1 Core Strategy policies CS2 and CS18 comments that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 5.5.2 Overlooking – To the south-west of the site there is a collection of mature trees which will separate the proposed dwelling from the new dwelling currently being built to the south-west of the site. There is also a 20m plus separation distance between these two dwellings. On the 1<sup>st</sup> floor of the south-west side of the two storey section of the building there is a small balcony area beyond the en-suite bathroom and walk-in wardrobe, but this does not have doors into this area, instead it will provide natural light into these two rooms. To the front of the site there is a large mature hedge and a separation of over 21m between the proposed dwelling and the dwellings on Hady Lane sited across from this site.
- 5.5.3 The main consideration is potential overlooking between no.152 Hady Lane and this dwelling. One consideration is that the residents of this dwelling are also the applicants for this scheme, so it is unlikely that will want to be overlooked in the future from the new residents living in this house. The existing dwelling has two balcony areas and 4 large main windows on the southern

elevation. On the northern elevation of the new dwelling there is a lounge at ground floor level, which will also include a flat roofed canopy protruding out from the eaves. The applicant proposes to include a hedge/fence in-between the two dwellings and after reviewing the drawings there are numerous contradictions in what is proposed, with the revised visibility splay drawing showing what is actually proposed. This would be a willow hedge/fence that would be 2m in height on the boundary between the two dwellings, the details regarding density and size of the trees (when planted) could be agreed via condition, but taller/older trees could be purchased to ensure that there is a screen almost straight away, rather than several years later. Within the Council's Design SPD it states that there is guidance for schemes to ensure that they have 21m separation distances between habitable windows, although this can be relaxed when context allows. These dwellings would be 18m apart. At ground floor the proposed hedge would prevent the majority of overlooking, but at 1<sup>st</sup> floor level it would be possible for the residents of no.152 to overlook the residents of the new dwelling. This is not considered to be ideal but the residents of the existing house would also be the residents of the new house and have decided to place their dwelling in this position with the knowledge that this could occur. This is not considered to be a significant negative reason to lead to a refusal on these grounds alone.

- 5.5.4 Overshadowing – In relation to overshadowing the proposal is significantly separated from surrounding dwellings and does not lead to overshadowing. No objections have been received from surrounding dwellings.
- 5.5.5 Landscaping – The proposal includes a significant amount of soft landscaping but very little detail has been included with the scheme. A composting and vegetable patch, as well numerous other plants are included. An additional hedge is also proposed to the side and a condition would be included to seek further details on this.
- 5.5.6 Amenity space – The proposal includes a rear garden area and patio area that is over 70 sqm in size, which is considered to be acceptable for a 3 bedroom dwelling.
- 5.5.7 Having regard to the above and 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 significantly impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of this policy.

## 5.6 **Design and Visual Impact**

- 5.6.1 In accordance with Core Strategy Policy CS18 all new development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. In doing so developments are expected to respect the character, form and setting of the site and surrounding area; having regard to its function, appearance, scale and massing.
- 5.6.2 The style of the area varies in terms of the character of the streetscene, with the four detached larger dwellings to the north, and then further nine detached dwellings beyond this. The separate groupings of the 4 and 9 dwellings are both distinctly different in style in terms of materials and layout/style; with 146-152 Hady Lane dominated by hipped roofs and a mix of elevations fronting the street, these have variations to the positioning in relation to building line etc but a similar selection of materials palettes is used in all four. The 9 dwellings to the north of these are also staggered in position but use a different material type to 146-152, but similar to one another in palette and is dominated by gables fronting the street (albeit with semi-hipped roof included in 4-5 dwellings). To the east of the site is the urban area of Hady, characterised by two storey dwellings set back and down from the highway. There is a variety of external building materials present in the streetscene, with render, red brick and beige brick walling present and also a mix of red and brown concrete roofing tiles.
- 5.6.3 The proposal would be a split level dwelling with a central two storey section which would have a intersecting gable style roof and then a raised single storey hipped roof section to the north and a projecting single storey section to the south; this takes into account the contours of the existing land levels on site to some extent. The dwelling has a contemporary appearance. It also accommodates several balconies as well as photovoltaic solar panel covered south facing roof. The proposed materials have not been stated in this application, so it is not possible to assess what is proposed. It is considered that the materials are an important aspect of the

scheme, so a condition will be required for this to be assessed prior to commencement. The 10 dwellings built on the overall site are considered to have used reasonably attractive materials and this dwelling should use these as positive examples when considering their options.

- 5.6.4 The dwelling would have a significant separation between no.152 and dwelling to the rear of the site. It is not considered to take any significant cues from the architecture of surrounding dwellings or the locality, although it is not considered that the area has any strong distinct characteristics to copy, with a range of different mostly non-descript housing designs in the surrounding area. The proposal would be set behind a mature hedge but would still have a large visual impact on the streetscene, with it changing a part of the site that could currently be considered to be part of the open countryside/residential curtilage in character. It is set forwards of a vague building line in place in the area, but this is not considered to be a negative consideration, as there is variety in the location of the front elevations of the 13 dwellings to the north, as well as the inclusion of setback sections to the front of no's 146-152.
- 5.6.5 Scale and massing – The dwelling is considered to be reasonably sympathetic in design terms with 4 different levels of the dwelling as viewed from the street. It is situated on a large site for one dwelling and has a big footprint. The design is spread outwards rather than upwards and this reduces the impact on the streetscene in terms of massing.
- 5.6.6 Appearance – The proposal is considered to be an attractive house and designed outside of the normal considerations of large scale housebuilders, with an attempt to build an innovative dwelling which takes into account of the site levels and uses the space in an interesting manner, whilst also seeking to utilise renewable energy sources such as sunlight and utilise natural light to illuminate internal rooms where possible. It is not considered to be “fit in” to the surrounding area in any manner, but as there is already a wide variety of different architectural styles in the area one other variation is not considered to be a negative issue.
- 5.6.7 Within this context it is considered that the development will have an acceptable appearance in the local area.

## 5.7 **Highways Issues**

### 5.7.1

The **Local Highways Authority (LHA)** has provided the following comments:

*Two accesses are proposed to the site and some explanation for this is given in the additional information although it is not general for sites to have two points of access. If adequate visibility is achievable, however, the Highway Authority would not raise any specific objection.*

*The Highway Authority has not been provided with a colour plan indicating the area the subject of the application and land within the ownership/control of the applicant. In view of the comments in the additional information, it is assumed that the applicant has a right to use the southern access and no doubt you will ensure that plan are satisfactory in terms of indicating this.*

*In respect of the southern access, visibility splays should be provided in line with those agreed under application 18/00009/REM and demonstrated on Drawing 2043/TP/003, which largely appears to be the same as that shown on the drawing attached to the additional information.*

*The site layout plan supplied to the Highway Authority makes reference to a Bancroft Drawing F 16052/03 in relation to details of the footpath crossing and visibility splays. The Highway Authority has a copy of this drawing on record. In the event two accesses are considered acceptable, it is considered that the visibility splays indicated on the aforementioned drawing are acceptable for the northern access (although you may wish to consider whether a suitable plan should be submitted as part of this application demonstrating same) especially given the presence of a give way feature in proximity to the site which is likely to slow traffic speeds. In the non-critical direction, however, the visibility splay passes over land that it is assumed is outside the area the subject of the application i.e. the frontage of No. 152. On the basis, however, that the applicant's own and live in No. 152 it is assumed that visibility could be secured over this frontage. It would though be necessary to secure it at this time by whatever means you consider most appropriate.*

*The access arrangements at the southern end of the site are not considered to be clear and require clarification. Whilst there is an existing access which it seems will serve a dwelling currently under*

*construction what is not clear is whether the access to this proposed property would be taken off that or be a separate one at the side of it and whether any improvements would be required.*

*With regard to off-street parking, the Highway Authority would look for the provision of two spaces per two/three bedroom dwelling or three spaces per four/four plus bedroom dwelling. Each space should have minimum dimensions of 2.4m x 5.5m (although where a space is in front of a garage the length should be increased to 6.5m) with manoeuvring to allow vehicles to enter and exit the site in a forward gear. Single garages should have minimum internal dimensions of 3m x 6m. It is not considered that the submitted drawing demonstrates this.*

*Given the location of the entrance to the proposed dwelling smaller service/delivery vehicles e.g. supermarket delivery and man carry distance should also be considered.*

- 5.7.2 The proposal offers parking for at least 4 vehicles off-site as well as a garage space, which includes an electric charging point. This is considered to be an acceptable level of parking for a 3 bedroom dwelling. The site has two exits, one which is existing from the previously approved scheme for one dwelling to the rear of this site; further information has been provided to show that the applicant has a right to use this access. It will also introduce a new exit to the north of the site; additional information was requested in regards precise details of the visibility splays from this exit to clarify how much of the hedge will be lost and if the wall to the front of no.152 impacted the visibility splay to the north. The submitted drawing shows that the wall will not impact the view to the north and that some of the hedge to the north of the exit will be retained. As mentioned previously the drawings provided through the process have been contradictory, with the most up-to-date visibility splays drawing showing what is actually intended. The hedge will be trimmed back to ensure that acceptable pedestrian and vehicular visibility can be achieved. It is considered that the scheme presented will not lead to an adverse impact upon highway safety in the area.

## 5.8 **Low energy home/climate change compatibility**

- 5.8.1 The dwelling includes several features to reduce its impact on the environment after the build-out and achieve the intention of a zero

carbon dwelling. This includes solar panels on the south facing roof, battery storage for energy not used by the dwelling and an air source heat pump. The building has also been designed to make use of natural light where possible and includes an electric charging point (to use energy from the battery storage) in the garage. The levels of insulation are unclear. There is also a back-up fossil fuel power supply to the house also.

5.8.2. In the garden there is shown to be a vegetable patch and composting facilities; whilst these are admirable inclusions there is no way of guaranteeing their appropriate management or use. These would reduce the amount of waste produced by the residents and the carbon footprint of their food, but due to their relatively small size this would be minimal in terms of food production.

5.8.3 The inclusion of renewable energy features is commendable for the proposal and this is a good example of how dwellings should be designed to reduce their impact on their environment and dependency on fossil fuels. This is a positive aspect of the scheme but is also part of the planning balance. Other considerations such as the carbon footprint of any construction works, loss of greenfield land, being outside of the acceptable distance to a local centre and the desire for 4 vehicle parking spaces on site mitigate any proposed positives of the scheme in terms of carbon footprint.

## 5.9 **Coal Mining**

5.9.1 A Coal Mining Risk Assessment was provided for the scheme and the Coal Authority did not object to the scheme. They require detailed further site investigations to discover what the ground conditions are, this will be dealt with via condition.

## 5.10 **Drainage and flooding**

5.10.1 The Council's Design Services and Yorkshire Water have been requested to comment. Yorkshire Water did not respond. Design Services have accepted that the proposed drainage scheme can be conditioned focusing on the soakaway infiltration tests and design of the calculations.

## 5.11 **Biodiversity**

- 5.11.1 The scheme includes the loss of some of the hedgerow to the front to make way for the access. It is also proposed to include additional soft landscaping including bushes, trees and a new section of hedgerow however this information is unclear and the exact loss or gain is unknown.
- 5.11.2 The applicant had an addendum ecology report completed for the site and in this the report the ecologist stated that:

*“The habitats within the application site and adjacent land (Site B) have changed since the 2015 EclA undertaken by Access Ecology. The change appears to be mainly due to the impact of the construction activities within the adjacent development sites (i.e. disturbance of habitats from site traffic and storage of building materials). The habitats within the application site, except the boundary habitats (hedgerow 03 and woodland) will be lost to the footprint of the development (i.e. proposed building and associated garden). However, the loss of these habitats can be easily offset by enhancing the habitats within Site B and by landscaping the garden habitats within the application site (Site A). The enhancement of Site B clearly has the potential to have a net gain to biodiversity which will be further enhanced by the additional of a landscaped garden.*

*Further habitat surveys in the optimal time of year are required to update the offsetting requirements for the site (i.e. confirm status and condition). Likewise, it is also recommended that the data search for the site is updated. These recommendations could be secured by a pre-commencement planning condition.*

*To reduce the level of net loss within the application zone some of the habitats of medium distinctiveness (woodland, scrub and grassland) could be retained. For example the woodland along the north western boundary of the application zone could be retained by moving the footprint of the building to the east and fencing it off to exclude the woodland area from the proposed garden habitats. This would retain 0.3 biodiversity units thus reducing the amount of offsetting required off site.*

*No evidence of the use of the site by protected species was found during the walkover survey.*

*A population of great crested newts are known to be present 360m to the south of the site. As such, the method statement detailed in Section 8.2 must be followed to protect GCN during the construction phase of the proposals.*



*Any habitat clearance works (including tree felling) must take place outside the main nesting bird season (March to August, inclusive). If this is not possible, the site must be inspected by a Suitably Qualified Ecologist ahead of works.*

*A wildlife-friendly lighting plan must be produced to ensure bat commuting and foraging habitat is protected during the construction stage and after the development is complete.*

*It is recommended that integrated bat and bird boxes are incorporated into the designs of the proposed dwelling to enhance the biodiversity gains of the proposals further.*

*A detailed landscaping plan for the application site and a habitat management plan for Site B is required to confirm the biodiversity net gain calculations for the proposals.”*

5.11.3 This is the response from the Wildlife Trust to this report:

*“We have reviewed the addendum report from Wildscapes (3/02/2020) that updates the previous ecological information provided with this application (Access Ecology, 2015).*

*We consider that the impacts on biodiversity at the site can be effectively mitigated by the measures outlined in the report.*

*Enhancements measures within the development site and on the adjacent Site B should be sufficient to ensure that there is no-net loss of biodiversity and that some gains are provided. It is recommended that the mitigation and enhancement measures in the report are implemented in full as part of the following conditions:-*

*Pre-commencement Biodiversity Net Gain (BNG) habitat update  
The addendum report recommends that prior to the commencement of development a survey is undertaken to confirm the status and condition of the evaluation for the BNG assessment and for the habitat management plan. This further survey work could be conditioned and the results fed into the mitigation and enhancement plans.*

*Mitigation*

*A range of mitigation measures are set out in the report that should be implemented during the construction phase of the development and we advise that a condition should be attached to ensure these measures are implemented along the lines of the following:-*

*“The development shall be carried out in strict accordance with the mitigation strategy/measures detailed in sections 5, 6 and 8 of the Addendum Report (Wildscapes February 2020), with any amendments agreed in writing with the LPA”*

### *Landscape and Biodiversity Enhancement and Management Plan (LBEMP)*

*The landscaping and biodiversity enhancement measures together with ongoing sympathetic management of habitats could be encompassed within a single plan and conditioned as follows:-*

*A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-*

- a) Description and location of features to be created, planted, enhanced and managed.*
- b) Aims and objectives of management.*
- d) Appropriate management methods and practices to achieve aims and objectives.*
- e) Prescriptions for management actions.*
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).*
- g) Details of the body or organization responsible for implementation of the plan.*
- h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.*
- i) Locations of bat boxes, bird boxes, hedgehog holes and habitat piles (include specifications/installation guidance/numbers).*

*The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.*

#### *Lighting Scheme*

*Details of any external lighting should be submitted to the LPA for approval.*

#### *Bird nesting*

*To ensure that breeding birds are protected from harm we advise that a condition should be imposed requiring that "No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved."*

5.11.4 Officers considers that the comments state that further ecology assessments are required to be completed and that off-site biodiversity works would be required to ensure that the scheme does not have a net biodiversity loss. As well as these, a soft landscape plan, a habitats plan for the site and bird and bat boxes on site would also be required pre-commencement. Subject to these conditions it is considered that the scheme is acceptable in line with policy CS9.

5.12 **Community Infrastructure Levy (CIL)**

5.12.1 Having regards to the nature of the application proposals the development comprises the creation of new residential accommodation and the development is therefore CIL Liable.

5.12.2 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:

		A	B	C	D	E
Development Type	Proposed Floor space (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index permission	Index charging schedule	CIL Charge
Residential	294	294	£50	344	288	£17,558.33

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

$$\underline{294 \times 50 \times 344} = \underline{\underline{£17,558.33}}$$

**288**

6.0 **REPRESENTATIONS**

6.1 The application has been publicised via neighbour letters, press advert and a site notice and no responses have been 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 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme.
- 7.3 The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application.
- 7.4 The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary.
- 7.5 The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.
- 7.6 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.
- 8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**
- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the February 2019 National Planning Policy Framework (NPPF).

8.2 Whereas the proposed development conflicts with the local plan the proposal is accepted on the basis of the planning balance having regard to the pre existing acceptance of development on the plot, the emerging replacement local plan and the higher energy specification for the dwelling. The LPA has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

## 9.0 **CONCLUSION**

9.1 The Council has considered the proposals the subject of the application against all remaining up to date development plan policies and on the basis of the position established by the previous outline and reserved matters planning permissions on the overall site and the development of the site in general the proposals can be accepted given the appropriateness of the proposed access, the siting, scale and appearance of the development and its landscaping impacts and the appropriate relationship with the surrounding properties.

9.2 On balance of all material planning considerations the development is considered to be acceptable 'sustainable development' and there is a presumption on the LPA to seek to approve the application. Conditions are required to ensure the scheme is acceptable in relation to the dwelling materials, ecology, biodiversity, highways, uplighting, coal mining, hours of work, trees, drainage, soakaways, soft landscaping and habitats.

## 10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be approved subject to the following conditions:

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.*

02. All external dimensions and elevational treatments shall be as shown on the approved plans; 30 revC; 40 revA; 41; 42 revA; 43; 44; 45 revA; 46; 50; KBH/51 and KBH/52

*Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

03. There shall be no gates within 5m of the nearside highway boundary and any gates shall open inwards only.

*Reason – In the interests of highway safety.*

04. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods, vehicles, parking and manoeuvring of employees and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designed use throughout the construction period.

*Reason – in the interests of highway safety*

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 properties without the grant of further specific planning permission from the Local Planning Authority.

*Reason – in the interests of highway safety*

06. Before any other operations are commenced a new vehicular access shall be created to Hady Lane in accordance with the application drawings no's: KBH 51(visibility splay south) and KBH 52 (visibility splay north) as dated 26.02.20, laid out,

constructed and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the sightlines shall be maintained thereafter in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway edge.

*Reason – in the interests of highway safety*

07. The premises, the subject of the application, shall not be occupied until the on-site parking spaces have been provided for in accordance with the application drawings laid out and constructed as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to designated use.

*Reason – in the interests of highway safety*

08. Work shall only be carried out on site between 8:00am and 6:00pm 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.

*Reason - In the interests of residential amenities.*

09. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

*Reason - In the interests of the amenities of occupants of adjoining dwellings.*

10. A residential charging point shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the

consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

*Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.*

10. The development shall include a scheme for the provision of surface water run-off on site, either via the use of a SUDs channel or permeable block paving. If this is not possible the applicant is required to contact the Local Planning Authority to discuss alternative options; and then not complete works until an alternative solution has been agreed in writing by the LPA. The scheme shall incorporate sustainable drainage principles and shall be implemented in full.

*Reason – In the interests of preventing surface water entering the highway.*

11. Prior to occupation a scheme of separate foul and surface water drainage which demonstrates that sustainable techniques have been used where feasible and viable shall be submitted to and approved in writing to the Local Planning Authority. This shall include precise details of the soakaway infiltration rates if soakaways are intended to be used. The development shall be carried out in accordance with the approved scheme.

*Reason - In the interest of satisfactory and sustainable drainage.*



12. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

*Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.*

13. Where the findings of the intrusive site investigations (required by the condition 12 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

*Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.*

14. A tree protection plan (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage/soakaways.
- b) Details of construction within the RPA or that may impact on the retained trees.
- c) a full specification for the installation of boundary treatment works and boundary treatments within the RPA.
- d) A specification for protective fencing to safeguard trees during land stripping and construction phases and a plan indicating the alignment of the protective fencing.

- e) a specification for scaffolding and ground protection within tree protection zones.
- f) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- g) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires

*Reason - Required to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.*

18. Before the ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used on the dwelling and garage 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.

*Reason - In the interests of visual amenity.*

19. Prior to occupation of the development hereby approved, details of any floodlighting and uplighting shall be submitted to and approved by the Local Planning Authority. Such details shall include siting, angles, levels of illumination and any shields. The details shall be implemented in accordance with those approved and should ensure that the light falls wholly within the curtilage of the site and does not significantly impact upon wildlife in the area.

*Reason – In the interests of local wildlife.*

20. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the

development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-

- a) Description and location of features to be created, planted, enhanced and managed.
- b) Aims and objectives of management.
- d) Appropriate management methods and practices to achieve aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.
- i) Locations of bat boxes, bird boxes, hedgehog holes and habitat piles (include specifications/installation guidance/numbers).

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

*Reason – In the interests of biodiversity and ecology.*

21. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

*Reason – In the interests of local wildlife.*

22. No development above floor-slab/D.P.C level shall take place until details for the treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing

by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

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

b) proposed hardstanding and boundary treatment:

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

d) Sufficient specification to ensure successful establishment and survival of new planting. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details.

*Reason – In the interests of biodiversity and ecology.*

23. As part of the landscaping condition (condition 22), suitable habitat shall be created that enhances the ecological interest of the site, in line with guidance within Paragraph 175d of the NPPF. This could include native landscaping, retention of existing features of ecological value (such as the hedgerow) and incorporation of bat and bird boxes into the new dwellings and hedgehog gaps in the fences. These shall be installed prior to the occupation of the development hereby approved in accordance with details to have been submitted to and approved by the Local Planning Authority beforehand. These features shall be maintained in accordance with the approved details.

*Reason – In the interests of biodiversity and ecology.*