

Case Officer: Chris Wright

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Decision date 20th April 2020 (subject to Covid 19 revised procedure)

File No: CHE/19/00713/FUL

Plot No: 2/5017

Item 2

DEMOLITION OF EXISTING BUNGALOW AND GARAGE AND ERECTION OF 3 DETACHED DWELLINGS WITH SHARED ACCESS AND PRIVATE CURTILAGES AT 15 CHAPEL LANE WEST, CHESTERFIELD, DERBYSHIRE, S40 4AG- AMENDED PLANS RECEIVED ON 12.12.2019

Local Plan: Economic Growth

Ward: West

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategic Planning Team	No objection to scheme but require additional information in relation to several aspect and conditions to be included.
Environmental Services Team	No objection subject to conditions for hours of work and air quality (electric charging points).
Design Services	Supportive of design of scheme in relation to flood risk. Require further information submitted in relation to drainage for site including surface water drainage.
Environment Agency	No objection subject to condition regarding adherence to flood risk assessment.
Yorkshire Water Services	No comments
DCC Highways	Require clarifications/additional information – see report
Chesterfield Cycle Campaign	No comments provided.
The Coal Authority	Material consideration, with conditions required regarding site investigations and mining gas,
Urban Design Officer	No detailed comments, but generally supportive of scheme.

Derbyshire Wildlife Trust	No objection after revised information provided, subject to condition.
Emergency Services	No comments provided.
Neighbours/Site Notice	2 comments received, both objections.

2.0 **THE SITE**

- 2.1 The site subject of the application is a rectangular parcel of land which is to the southern end of the western side of Chapel Lane West; which runs to the south of Chatsworth Road. To the south of the site there is the River Hipper and a mature tree belt. To the north is a row of dwellings fronting Chatsworth Road and their long gardens, with The Star public house on the corner of Chatsworth Road and Chapel Lane West. To the west of the site is a yard for Bristol Street Motors, which includes outbuildings located on the boundary between the two sites. To the eastern of Chapel Lane West there is a row of 4 terraced houses, a detached bungalow and separate terraced-style dwelling. The tow of terraces face the river and have front gardens.
- 2.2 The site is split into two sections with a bungalow to the eastern side of the site and a grassed area with some fruit trees on it to the western side. The site also includes a patch of land that was previously car parking spaces related to the public house which is sited on Chatsworth Road.
- 2.3 There is a car parking area for 9 vehicles for the public house. The row of terraced houses do not appear to have parking spaces designated for them, the bungalow has access to off-street parking to the front of the site. There is an area of hardstanding to the north of the terraced-style detached dwelling but it is unclear who owns the land and is able to utilise this. The private road surface is not of a good standard and limited availability for safe on-street parking on this road.
- 2.4 The site is residential in nature at present and is surrounded by housing on most of the sides. The area beyond the river is green space associated to Walton Dam. There are retail units on Chatsworth Road including The Star public house and its land to the north of this site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0185/0006 - Permission for bungalow and garage – Conditional Permission - 13-03-85

4.0 **THE PROPOSAL**

- 4.1 This application is for the demolition for the existing bungalow and garage and building of 3 detached dwellings. These dwellings would have gardens to the side of the houses and parking below the undercroft design which also includes a raised access door. The dwellings are contemporary in design with facing brickwork at ground floor and timber boarding on the upper floors, with large areas of glazing to the front. They would have slate roofs. There are also two balconies on the south side of each dwelling and a privacy screen on one side of these to protect one another's privacy.
- 4.2 The site has permeable paving and soft landscaping to the front of the sites to reduce surface water runoff from the site. Each dwelling would have two separate front balconies, with 20.5 sqm first floor space and 13m second floor space; both of which would have some level of privacy from other residents on site. They would also have side gardens that would have hedges to the front and rear as well as a tree and these areas would be approximately 50 sqm in size.
- 4.3 A revised drawing has been provided that has amended the site including an area to the east of plot 1, a landscaped area has been changed to a turning area for visiting vehicles and a bin storage area on bin collection days.
- 4.4 There is a rear walkway (raised above 1 in 200 year flood event height) to the rear of all 3 dwellings which provides access into and out of the site in case of flooding but also for everyday use.
- 4.5 The scheme would have access to the site from Chapel Lane West and a 3.7m wide access road along the south of the site. Each dwelling would have 2 parking spaces that are 5.0m by 2.5m in width and then approximately 6m to the rear of the vehicle spaces to enable them to reverse their vehicles and leave the overall site in a forwards gear.
- 4.6 The dwellings would be 3 bedroom houses with a utility room, entrance hall and WC at ground floor; a kitchen, dining room and lounge area and WC and balcony area at 1st floor and 3 bedrooms and 2 en-suite bathrooms at the 2nd floor.
- 4.7 The dwellings will have large sections of glazing to the front; with a window and access door to the rear at ground floor level, at first floor there will be no windows to the rear, with one obscure glazed WC window on the eastern side and a double paned window for the kitchen on the western side (which will overlook the garden space). At second floor there will be no windows to the rear with two small velux windows for bathrooms and a larger velux window for the 3rd bedroom (which will allow some outlook due to its height).

5.0 **CONSIDERATIONS**

5.1 **Policy Issues**

5.1.1 The site is within land allocated as Employment Land on the adopted Policies map (and the Submission Policies Map which has been through examination hearings). It is an existing residential dwelling and as such is previously developed land apart from the garden, as the NPPF specifically excludes private residential gardens within built-up areas from the definition of previously developed land (annex 2: Glossary). Part of the site is therefore greenfield land. The site is within Flood Zones 3a and 2, and is at medium risk of surface water flooding. The site is adjacent to the river hipper corridor and the public open space to the south.

Policies CS1 and CS2

5.1.2 Policies CS1 and CS2 have in effect been formally reviewed through preparation of the emerging new Local Plan and the spatial strategy they set out is still considered consistent with the NPPF. The outcome of that review process in the form of emerging policies LP1 and LP2 is (in so much as the policies are relevant to the proposed development), will update the current adopted policies but will not change the overall strategy. The recent appeal decisions, in particular that at Northmoor View did not conclude that the policies CS1 and CS2 are out of date, nor that paragraph 11(d) of the NPPF is triggered in this respect. It is also the case that the circumstances referred to in footnote 7 of the NPPF as triggers would not be present.

5.1.3 Consequently, given the above, whilst policies CS1 and CS2 were adopted over 5 years ago they should be afforded the full weight of adopted, up to date policy in the planning balance. Furthermore paragraph 11(d) of the NPPF is not triggered by the longevity of these policies or the outcome of their review. Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years.

5.1.4 Some weight should be afforded to the emerging Local Plan policies LP1 and LP2 due to having completed the hearings of the examination.

5.1.5 The site is located within very close walking distance of Chatsworth Road District Centre and therefore accords with Policy CS1 Spatial Strategy in this regard, and in principle is an acceptable location for residential development.

5.1.6 CS2 sets out a number of requirements, and proposals are assessed according to the extent to which they meet these criteria. The proposal meets criteria a, c, e and f. In terms of criteria b, the NPPF specifically excludes private residential gardens within built-up areas from the definition of previously developed land (annex 2: Glossary).

Employment Allocation

5.1.7 Although the site is located within an allocated employment area, Policy CS13 must be considered. Although there is an existing residential use on the site, and therefore the proposal cannot be said to lead to a quantitative or qualitative deficiency in available employment land (CS13 criteria i), it is still necessary to consider whether the proposal would inhibit existing or future business and industrial activity on adjacent sites (CS13 criteria ii). Considering the prevalence of other residential properties in the immediate area, it is not considered likely that the proposal would inhibit existing or future business or industrial activity.

Policy CS10

5.1.8 Policy CS10 states that “planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or...there is less than a 5 year supply of deliverable sites.” As the council is currently able to demonstrate a five year supply of deliverable housing sites, policy CS10 would indicate that planning permission should not be granted for the development of residential gardens or small scale greenfield urban infill plots such as that proposed. Accordingly the proposal would not accord with policy CS10.

5.1.9 When considering policies CS1, CS2 and CS10 together in the instance of the proposal, there appears to be a tension between policy CS1, CS2 and CS10. The proposal would accord with policy CS1 and the majority of the criterion in policy CS2 would also be met. However, it would not accord with CS10. In such a circumstance it is for the decision maker to attribute weight to the policies taking into account the facts of the particular case. In this instance it would seem reasonable to apply greater weight to policy CS1 than CS10 on the basis that (in a cumulative manner): -

- The proposal accords with Policy CS1
- The majority of criteria in policy CS2 are met (see comments below regarding highways and access)
- The site and proposal are small, within walking distance of a centre and is within the existing built up area of a settlement.
- The site is within 15 minutes travel time (bus) of essential services and facilities.
- The site is not on land protected by the Local Plan for Green Infrastructure, Biodiversity or ‘open countryside’ functions and its loss would not have an impact on the intrinsic character and openness of the countryside or the general level of amenity of the locality
- Overall the proposal would not prejudice the local plans spatial strategy and strategic objectives.
- The proposal would be broadly consistent with the requirements of the NPPF and in principle represent sustainable development and to give greater weight to CS1 in the circumstances would in effect promote a good mix of sites for small housing developments,

supporting the development of a windfall site within an existing settlement, and afford great weight to the benefits of such development.

5.1.10 Having established that the location is appropriate for residential development, the proposal accords with the Spatial Strategy and there is not an issue regarding loss of employment land/impact on existing or future business or industry.

5.1.11 It is considered that the site is situated within close vicinity of Chatsworth Road. This immediate area is mixed in character, with a mix of residential and retail, although the existing site is residential in character. It is within close proximity to a local centre and its services and facilities.

5.1.12 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national / local policies

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

5.1.13 The proposed development site is situated within short walking and cycling distance from Chatsworth Road Local Centre. The existing site is residential in character and the principle of residential development is therefore considered to be acceptable. The site is located within a built-up area where new housing development would be considered appropriate in principle and as such it is considered that this proposed development site is considered to be sufficiently sustainable for a development of this nature. It is considered that in this case policy CS1 should have more weight than policy CS10 and the site is sufficiently sustainable for a development of this nature and adheres to the policies CS1 and most of CS2.

5.2 **Design and Visual Amenity**

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

development to have an acceptable impact on the amenity of neighbours. Furthermore the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.2.2 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.
- 5.2.3 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.
- 5.2.4 The site is positioned in the location of an existing bungalow. The character of housing in the area is mixed, with terraced housing and bungalows the predominant housing types within the locality. It is accepted that the proposed dwellings are completely different in design terms to the character of the surrounding area however the dwellings will face the river and they will appear as two storey dwellings although will function as three storey dwellings, with the roof space used as living accommodation. They are predominantly glazed to the front and then mainly timber clad to the rear and sides as well as having large slate roofs. They are not considered to have any significant relationship with the surrounding dwellings in terms of building line, scale, massing or street scene.
- 5.2.5 The proposed dwellings would be attractive modern dwellings and considered to be contemporary styled and innovative in design in terms of utilising the space on site whilst still having 3 separate useable amenity spaces including a small side garden and one large balcony and one smaller balcony. As they will have a clear relationship with the adjacent river and trees the scheme is considered to be a positive relationship. The use of slate roofs, timber cladding and glazing to the frontage will create high quality and unique dwellings in this part of the Borough of Chesterfield.
- 5.2.6 The proposal is not considered to have a detrimental impact on the area and would introduce innovative and interesting dwellings to the

area. It is considered that the application is acceptable in terms of design for policies CS2 and CS18.

5.3 Residential amenity

- 5.3.1 Core Strategy Policy CS2 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.
- 5.3.2 In terms of overlooking, overshadowing and other impacts on surrounding dwellings in the area the proposed dwellings are somewhat isolated and separated from adjacent dwellings and the scheme is considered acceptable in terms of separation distances, overlooking and overlooking.
- 5.3.3 In terms of the inter-relationships between the dwellings on site, the dwellings include several features that ensure the residents will have acceptable levels of privacy between each dwelling, due to the positioning of obscure glazing, privacy screens and fencing.
- 5.3.4 Overlooking - Plots 1 and 2 do not have clear glazed side windows that will overlook the gardens of neighbouring dwellings, the 1st floor balconies to the front will have privacy screens to the eastern sides and hit and miss fencing will be included at ground floor level to the side of open area of the cantilevered dwellings.
- 5.3.5 Overshadowing – The dwellings will not lead to overshadowing between one another internally, and as the gardens are to the western sides of each dwelling, they should get reasonable levels of day and sunlight into the gardens. The balconies are on southern elevations of the dwellings so will have good levels of sun and day light in summer. The mature trees to the south of the site will impact the dwellings especially in summer months.
- 5.3.6 Landscaping – The proposal includes some soft landscaping to the site within gardens and shared areas, including trees and hedges; additional information on the specifics of this can be sought in a condition. The general idea of including some level of planting on site is considered to be reasonable in proportion to the size of the site.
- 5.3.7 Amenity space – The proposal includes side gardens of approximately 50 sqm, a 1st floor balcony of 20.5 sqm and 2nd floor balcony of 13 sqm in size; this adds up to over 80 sqm of amenity space spread over 3 different spaces. In the Council's Design Guidance it is recommended that a 3 bedroom dwelling has a minimum of 70sqm private amenity space, and this is generally meant to be in one space, not spread over several smaller poorly designed, laid out or positioned spaces. This proposal does not achieve one singular space, but all 3 spaces are

considered to be attractive and likely to be used, with the balconies overlooking the river and trees, and small garden suitable for drying clothes and normal usage without any overshadowing or overlooking issues from adjacent buildings.

- 5.3.8 Overall the proposed development is considered to be appropriately designed to respond to the provisions of policies CS2 and CS18 of the Core Strategy and the wider SPD, subject to conditions for soft landscaping, trees and retention of privacy elements.

5.4 Highways Issues

- 5.4.1 The Highways Authority was consulted on the proposal and provided these comments:

Chapel Lane West is not adopted as part of the publicly maintainable highway, is not included in the area the subject of the application or shown as being in the ownership/control of the applicant. Access may, therefore, be an issue and you may wish to clarify this with the applicant. The planning application form indicates new or altered vehicular access. Comments are given on the basis that this is within the site and does not affect the junction of Chapel Lane West with Chatsworth Road. Whilst the site is remote from the publicly maintainable highway, current design criteria suggests that to serve 2 to 5 dwellings, the access should be 4.25m wide with 0.5m widening for each side where it is bounded by a wall, fence, hedge, line of trees or similar. The Highway Authority would have concerns regarding the lack of formal turning for service/delivery including smaller service/delivery vehicles e.g. supermarket delivery to allow vehicles to enter and exit the site in a forward gear. The applicant should demonstrate a manoeuvring area in order that vehicles can enter and exit Chatsworth Road in a forward gear. The applicant should liaise with the refuse/recycling collection Authority as to the suitability of any layout. If such vehicles will not be entering the site the residents will be required to take their bins some considerable distance and there would not appear to be any opportunity for the provision of a bin dwell area for collection days leading to increased 'obstruction' of the footway on Chatsworth Road albeit on a temporary basis. The properties would be located some considerable distance from the publicly maintainable highway and the applicant should liaise with the emergency services as to the acceptability/suitability of any layout. The dimensions of the car parking spaces appear acceptable (i.e. 2.4m x 5.5m) and it should be remembered that 6m is required to the rear for manoeuvring and vehicles will need to be able to enter and exit the site in a forward gear which it is considered is achievable."

- 5.4.2 The above comments were provided in line with the original drawings. The scheme has since been amended and it now has a turning area for vehicles, a bin storage area next to the entrance and a 6m plus area to the rear of the parking spaces to allow vehicles to turn and leave the site in a forward gear. The parking spaces are 5m long and 2.5m wide,

which is considered to be an acceptable size parking space. There would be 2 parking spaces on plot per dwelling which is in line with the preferred number of parking spaces for a 3 bedroom dwelling.

- 5.4.3 To get to the site the residents would need to travel down Chapel Lane West from Chatsworth Road, this is a private road with a poor surface and with parking spaces for dwellings to the eastern side at the top and for the public house to the west further down the road. There are multiple obstacles on the road including a telegraph post, bins for the public house and limited on-street parking. The road has some limited segments of footpath but is completely unmarked which is not considered to be ideal, especially when considering the potential for increased vehicular travel on this road. There have been comments from local residents that additional vehicular travel is not welcome and that this could lead to a negative impact on highway safety on the road.
- 5.4.4 The proposal will require construction traffic to utilise the private road however such construction traffic is a temporary impact and that even on restricted roads that this is not a valid reason for refusal. The issues are that there is a limited width, poor surface, obstacles and poor access to the site. The proposed site would have an improved new access into it including an area currently landscaped and to be set aside for parking. This new access is considered to be suitable by the local highways authority. The condition of the road and obstacles are not positive aspects of the access road but they are in place at present with several houses and visitors to the public house having to navigate them and deal with the issues they present. The proposal would add two more dwellings on the street, which is not considered to be a significant increase and would actually increase the number of residents who would share the costs of repair and maintenance of the road.
- 5.4.5 The existing access that exits on Chatsworth Road is considered acceptable for the existing residents on the road, and the proposal will add the vehicles from 2 more dwellings which is not considered to be a significant increase.
- 5.4.6 The revised drawing that includes a turning area and bin storage area is considered to be an improvement to the scheme, and this should enable the safe access from the site of non-resident vehicles in a forwards gear. It will also enable bins to be stored in a safe and non-cluttered location on bin collection days and will also ensure that bin wagons can continue to collect waste by only accessing Chapel Lane West as they currently do.
- 5.4.7 It is considered that the scheme will not lead to a significant impact in terms of its impact on highway safety and is considered to be acceptable in comparison to local and national planning policies.

5.5 Water/Drainage/Flood Risk

- 5.5.1 The site is within Flood Zones 3a and 2 and is at medium risk of flooding. The applicant has provided a Flood Risk Assessment and it is agreed that the first part of the exceptions test is met, and the proposal delivers sustainability benefits (in particular the overall effect of reducing flood risk on the site and also downstream). With regard to the second part of the exceptions test, it is agreed that the proposal would provide a net gain in the flood attenuation performance across the site (as a whole) and the proposal is in accordance with policy CS7 subject to the permeability of material of any hard surfaces being secured by condition.
- 5.5.2 The Council's Design Services Team comments that the applicants flood risk assessment for the development states that the proposed lower ground floor level will be raised above the estimated 1 in 200 year river flood level. The lower ground floors will provide only a garage, utility and WC with habitable spaces located upstairs to increase flood protection. A walkway to the rear of the site is located above the 1 in 200 year flood level to aid in safe egress from the properties in the event of flood. The properties will also be constructed using flood resilient construction methods.
- 5.5.3 The Design Services Team have no objection to the principles of managing flood risk and comment that the scheme should be constructed in accordance with the designs and flood risk assessment.
- 5.5.4 The Environmental Agency was also consulted on the scheme and they confirmed that they did not object to the proposal.
- 5.5.5 As the proposal has been designed to be acceptable in terms of the flood risk it is considered that the scheme is acceptable in terms of Local and National Planning Policy.

5.6 Environmental Health - Land Condition / Contamination

- 5.6.1 Land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.
- 5.6.2 The Council's Environmental Health team has reviewed the proposals and commented that they have no objections to the plans. It has been considered that a condition should be imposed placing restrictions on the hours of construction in the interests of protecting the amenity of neighbouring properties, as well as the inclusion of electric charging points, to reduce air pollution.
- 5.6.3 In relation to noise from the construction of the proposed dwellings; the workers on site would be restricted with the working hours to be 8am-6pm Monday to Friday, 9am-5pm on Saturdays and no work on Sundays or Bank holidays. These restrictions will assist in limiting the noise from the site to normal working hours and reduce impacts in the interests of the amenity of local residents.

5.6.4 In respect of potential Coal Mining Risk, the site the subject of the application is situated within the Red Referral Area. The Coal Authority were consulted on this application and they stated that the application site falls within the defined Development High Risk Area. A Coal Mining Risk Assessment was provided by the applicant and the Coal Authority considered this to be acceptable. The Coal Authority therefore has no objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

5.7 **Biodiversity Green Infrastructure and Biodiversity**

5.7.1 The existing site is a residential dwelling with a garden surrounded by soft landscaping. It is also adjacent to a river with mature trees. The applicant/agent has submitted ecology reports and this has been assessed by Derbyshire Wildlife Trust commenting:

Further to our previous responses between December 2019 and February 2020 we have now reviewed the revised ecology report produced by Paul Hicking Associates dated February 2020, reference 1975-PHA. We are satisfied with the additional information and assessment that has been provided.

If the Council are minded to grant planning consent for the above development it is recommended that the following conditions and informative are attached to this consent.

- *Prior to the commencement of development a detailed biodiversity enhancement strategy shall be submitted to and approved in writing by the Council. This should include integrated measures for nesting birds and roosting bats, hedgehog gaps and native planting. Such approved measures shall be implemented in full and maintained thereafter.*

- *No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.*

- o *Risk assessment of potentially damaging construction activities.*

- o *Identification of "biodiversity protection zones".*

- o *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*

- o *The location and timing of sensitive works to avoid harm to biodiversity features.*

- o *The times during construction when specialist ecologists need to be present on site to oversee works.*

- o *Responsible persons and lines of communication.*

- o *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*

- o *Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout

the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. Paragraph 180 of the NPPF states “By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”. As part of this development lighting should be minimised to reduce impacts on foraging bats and the River Hipper. The design and specification of internal and external lighting will need to be considered as the new properties have large glazed front elevations that overlook the River Hipper. This should be secured through the following condition:

• Prior to the commencement of development, a lighting strategy shall be submitted to and approved in writing by the Council. Such approved measures must be implemented in full and maintained thereafter. An informative with regard to nesting birds is also recommended as the development will involve the removal of vegetation suitable for nesting birds.

- 5.7.2 The scheme has some level of soft landscaping including tree planting however further information is required about bat and bird boxes to ensure the scheme achieves a net gain in biodiversity. Conditions can be included in line with policy CS9.
- 5.7.3 It is important also to note the new policy LP20 River Corridors in the submission Local Plan, which can be afforded some weight on the basis that it has been through the examination hearings. The emerging policy approach requires that development proposals do not prejudice the existing character of and/or the future potential for improvement and enhancement of the environment of rivers. It also requires development proposals on or adjacent to river corridors to include provision for safe and convenient walking and cycling access wherever possible however in this case such access is not required or appropriate.

5.8 Community Infrastructure Levy (CIL)

- 5.8.1 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.
- 5.8.2 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
Plot	Proposed Floor space (GIA in Sq.m)	Existing Floor space	Net Area (GIA in Sq.m)	CIL Rate	Index permission	Index charging schedule	CIL Charge
Plot 1	131		131	£50	344	288	
Plot 2	131		131	£50	344	288	
Plot 3	131		131	£50	344	288	
	393	75	318	£50	344	288	£18,991.66

$$\frac{\text{Net Area (A)} \times \text{CIL Rate (B)} \times \text{BCIS Tender Price Index (at date of permission) (C)}}{\text{BCIS Tender Price Index (at date of Charging Schedule) (D)}} = \text{CIL Charge (E)}$$

$$\frac{318 \times 50 \times 344}{288} = \text{£18,991.66}$$

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6.0 REPRESENTATIONS

6.1 2 comments have been received from local residents:

6.1.1 Residents of East Barn, Loads Road, Holymoorside have stated that they object to the scheme due to noise and traffic or highways, the road is of a poor standard and there would be no provision for lorries delivering materials to the site to turn and leave the road in a forwards gear.

6.1.2 Residents of 424 Chatsworth Road objects to the scheme due to highway safety issues and damage to riverside habitat. They have stated that the lane is in poor condition at present and that the addition of 3 dwellings would have a negative impact on highway safety, as the junction onto Chatsworth Road is busy.

6.2 ***comments – highways issues are dealt within the highways section of the report. It is accepted that the road is of a poor standard and that construction traffic may make this situation worse, but this is a temporary impact and the ultimate increase in traffic will not be significant. Chapel Lane West is a private road and its maintenance and repair is a private matter between those who have rights of way over it. The ability to access Chapel Lane***

West and turn will not change and will be no worse than existing. Noise issues and impact on biodiversity are considered in the report.

7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

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.

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

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 Given that the proposed development subject to conditions would not conflict with the revised NPPF (February 2019) and with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. 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 proposals are considered to be appropriately designed and would not have a significant unacceptable impact on the amenities of neighbouring residents or and significant impacts on highway safety.

The proximity to the river is taken account of resulting in nom objections from the Environment Agency and the drainage team of the Council. It is considered that the location of the proposed development site is sufficiently sustainable, is in a built up area and is adequately served by public transport and local services and amenities. As such, the proposal generally accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

9.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS18 of the Core Strategy and the wider NPPF in respect of Highways, design and landscaping. This application is liable for payment of the Community Infrastructure Levy.

10.0 **ADDITIONAL RECOMMENDATION**

10.1 That a CIL Liability Notice be issued as per section 5.8 above.

11.0 **RECOMMENDATION**

11.1 That the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans.
3. Prior to commencement 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. The development shall be carried out in accordance with the approved scheme. This shall include detailed information to show how the proposed drainage system will function.
4. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted in writing to and approved by the Local Planning Authority. This shall include infiltration rates if a soakaway is to be used.
5. 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.

6. Unless otherwise approved in writing by the Local Planning Authority construction work to implement the permission hereby granted shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm 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.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no windows, side or rear extensions, outbuildings, means of enclosure or alterations to existing means of enclosures, boundary treatments or privacy screens other than those hereby permitted, shall be constructed/carried out or removed on the site without the permission of the Local Planning Authority.
8. Prior to the building of the dwellings, 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.
9. Residential charging points 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 sockets shall be located where they 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.
10. Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Chapel Lane West.
11. The vehicular access shall be provided, prior to the first occupation of the new dwellings, with 2m x 2m x 45° pedestrian intervisibility splay with the area in advance of these sightlines being kept clear of objects greater than 1m in height (0.6m in the case of vegetation) relative to nearside carriageway channel level.

12. There shall be no gates within 5m of the nearside highway boundary and any gates shall open inwards only.
13. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
14. 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.
15. As part of the landscaping condition (condition 14), 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.
16. 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 as part of the scheme.

17. The development shall include at least 2 bird/bat boxes on site, 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. The boxes shall be maintained in accordance with the approved details.
18. The development shall be carried out in accordance with the submitted flood risk assessment For Demolition of Bungalow & Erection of 3 Houses – Chapel Lane West, completed by The Planning and Environment Studio and dated November 2019 and the following mitigation measures it details:
 - Lower ground floor, finished floor levels to be set no lower than 92.550m above Ordnance Datum (AOD).These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
19. 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.
20. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - o Risk assessment of potentially damaging construction activities.
 - o Identification of "biodiversity protection zones".
 - o Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - o The location and timing of sensitive works to avoid harm to

biodiversity features.

o The times during construction when specialist ecologists need to be present on site to oversee works.

o Responsible persons and lines of communication.

o The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

o Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

21. Prior to the commencement of development, a lighting strategy shall be submitted to and approved in writing by the Council. Such approved measures must be implemented in full and maintained thereafter.

22. Obscure glazing to a Pilkington Scale level 4 shall be utilised on the windows of the eastern elevations of the proposed dwellings. These windows only, shall be installed and retained obscurely glazed thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reasons for conditions

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. 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.
3. In the interest of satisfactory and sustainable drainage.
4. To ensure that no surface water discharges take place until proper provision has been made for its disposal.
5. In the interests of highway safety.
6. In the interests of residential amenity.
7. In the interests of the amenity of the occupants of existing and proposed dwellings.
8. In the interests of highway safety.
9. In the interests of air pollution.
10. In the interests of highway safety

11. In the interests of highway safety
12. In the interests of highway safety
13. In the interests of highway safety
14. Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.
15. In the interests of biodiversity in the area.
16. To prevent the increased risk of flooding
17. In the interests of biodiversity on site.
18. To reduce the risk of flooding to the proposed development and future occupants.
19. To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.
20. In the interests of biodiversity in the area.
21. In the interests of biodiversity in the area.
22. In the interests of residential amenity in the area.

Notes

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
2. 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.

3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken 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 (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. 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.
6. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.
7. The buildings have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.