

Case Officer: Rob Forrester  
Tel. No: (01246) 957761

File No: CHE/19/00810/FUL  
Plot No: 2/2150

Cttee Date: 24<sup>th</sup> August 2020

### Item 1

## ERECTION OF A DETACHED HOUSE ON LAND AT 132 HIGH STREET, OLD WHITTINGTON, CHESTERFIELD, S41 9LE for Mr M ELLIS

Local Plan: Unallocated – within Built-up area  
Ward: Old Whittington

### 1.0 CONSULTATIONS

<b>Local Highways Authority</b>	Comments received 09/02/2020 – no objection, advises 5 conditions
<b>CBC Drainage</b>	Comments received 03/03/2020 – No objection. Site not at flood-risk
<b>CBC Tree Officer</b>	Comments received 18/02/2020 – 3 protected trees within grounds of 140 High Street are close to the site. Whilst not directly affected by the proposed dwelling, they could be influenced by construction parking/storage – advises 1 condition
<b>Ward Members</b>	No comments received
<b>Site Notice / Neighbours</b>	1 representation received

### 2.0 THE SITE

2.1 The site the subject of the application comprises the substantial side garden to No132 High Street, one of 2 pairs of semi-detached houses that follow the bend of High Street - where it turns in to Bower Farm Road - and to the north-east of the site is No140 High Street, a substantial property facing on to High Street.

2.2 The boundary between No 140 High Street and the site contains several protected trees and a hedge.

2.3 The 4 semi-detached houses face on to the older part of High Street, whereas No 140 faces on to the newer part off High Street, where it runs through the residential area and towards New Whittington.



- 2.4 The existing dwelling is a hipped roof semi-detached house with a side drive/garage and substantial triangular-shaped side garden that extends out to the newer section of high Street.
- 2.5 The surrounding land is in residential use with the immediate surroundings being a mix of detached, semi-detached and terraced houses of various styles.
- 2.6 The semi-detached dwelling to which the site relates is of red-brown brick and profiled tiled roof construction, with a ridge chimney stack.
- 2.7 To the front/side of the dwelling is a low stone wall and hedge separating the dwelling from the grassed area between the old and new parts of high street, which provides a footway link between the Bower Farm Road estate and the high Street.



### **3.0 RELEVANT SITE HISTORY**

- 3.1 There is no relevant Planning History relating to the site.

## **4.0 THE PROPOSAL**

- 4.1 The proposal is for the demolition of the existing garage to the side of the existing dwelling, and to utilise the existing drive to serve a new 4-bedroomed detached dwelling to be built on the same building line as the 4 semi-detached houses.
- 4.2 The existing dwelling is to be provided with a new drive with side-by-side parking on the front garden between the dwelling and the public highway (which would constitute 'permitted development').
- 4.3 The dwelling proposed is a simple rectangular design, reflecting the building line of the 4 semi's, and it is of similar depth.
- 4.4 It is a compact 4-bedroomed design that has a hipped roof to match the adjacent dwellings and with a similar front door position and window fenestration, and matching materials are specified.

## **5.0 CONSIDERATIONS**

### **5.1 Planning Policy Background**

- 5.1.1 The site is situated within Old Whittington Ward in an area which is unallocated in the new Local Plan but which is predominantly residential in nature, and the site is surrounded by established housing.
- 5.1.2 Having regard to the nature of the application proposal, policies CLP1 Spatial Strategy (Strategic Policy); CLP2 Principles for Location of Development (Strategic Policy); CLP3 Flexibility in Delivery of Housing (Strategic Policy); CLP4 Range of Housing; CLP13 Managing the Water Cycle; LP14 A Healthy Environment; CLP15 Green Infrastructure; Biodiversity, Geodiversity and the Ecological Network; CLP20 Design; CLP22 Influencing the Demand for Travel, of the Adopted Chesterfield Borough Local Plan 2018 - 2035 and the wider National Planning Policy Framework (NPPF) apply. In addition, the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

### **5.2 Principle of Development**

#### **Local Plan Spatial Strategy**

- 5.2.1 The main policy considerations relating to the principle of development are Local Plan policies CLP1 and CLP2 which directs the majority of new housing to the main urban centres and within the built-up areas of the larger settlements such as Old Whittington. These policies are viewed to be in date and relevant to the proposal.
- 5.2.2 **CLP1** sets out that the overall approach is to concentrate new development within walking distance of centres and focus on areas that need regenerating. In terms of walking distance, the site is around 100m to the north-east of Old Whittington Local Service Centre based around the High Street, and the Primary/Junior school via a well-used and lit route. Given the distance and route, this is considered reasonable in terms of distance from a centre, and there are bus stops in close proximity and good cycle routes to the other centres.
- 5.2.3 **CLP2** (Principles for Location of Development) sets criteria for assessing proposals for development on unallocated sites, favouring previously-developed sites and those within easy walking distance of centres. As mentioned above, the site is within a reasonable walking distance from a centre, and therefore contributes to delivering the spatial strategy in this regard. The spatial strategy also sets out the overall housing requirement for the borough, and the proposal would make a contribution, albeit small, to delivering that.
- 5.2.4 The site would add to the availability of housing land – boosting supply as required by the NPPF and provides a compact-sized 4 bedroomed family house and given the above, the proposal would not prejudice the spatial strategy and strategic objectives and it is considered that on balance the principle of development is acceptable. The development is generally in accordance with policies CLP1 and CLP2.

### **5.3 Design and Appearance**

- 5.3.1 In respect of design and appearance matters the proposal provides for a modest 4-bedroomed family house in a compact form and the 2-storey dwelling as proposed does not jar with the surrounding character.

- 5.3.2 The area is one that has a mix of dwelling sizes, age and architectural style and the proposed dwelling reflects the adjacent semis and their established building line.
- 5.3.3 The design therefore picks up on the scale, fenestration detail, materials, eaves and ridge height of its neighbours and the hipped roof design.
- 5.3.4 No design matters related to the application would materially affect crime, disorder or policing.
- 5.3.5 Whilst the removal of the front garden to provide the replacement parking for the existing dwelling - which would result in a dominant hard-surfaced area this could occur in any event under permitted development rights.
- 5.3.6 The dwelling maintains a reasonable 'gap' between the existing dwellings further along High Street, and it is considered that the siting, design and scale of the development proposal is visually acceptable having regard to the provisions of policies CLP2 and CLP20 of the Adopted Local Plan.

#### **5.4 Highways Issues**

- 5.4.1 Whilst the representation received makes particular reference to highway safety and in particular traffic, parking and visibility concerns, the development provides adequate visibility splays at the accesses, and off-road parking for each dwelling.
- 5.4.2 The plans demonstrate that the required visibility splays indicated by the Local Highway Authority can be provided and there would be improved pedestrian visibility for the parking arrangements, and the Highways Authority raises no objections, although their preference is for side-by-side parking is not considered to be a reasonable requirement in this instance as the development utilises an existing drive, and a large expanse of hard-standing would not be visually desirable at this point.
- 5.4.3 Whilst there would be a minor loss of on-street parking at the access points, the proposal is acceptable in Highway safety terms and the N.P.P.F indicates that permission should only be refused on highway safety grounds when the resulting situation would be severe.

5.4.4 On this basis, and having regard to the other matters considered above, the development proposals are considered to be acceptable in terms of Highway Safety and accord with the provisions of policies CLP2 and CLP 22 of the Local Plan in respect of highway safety matters.

## **5.5 Neighbouring Impact/Amenity**

5.5.1 The position of the dwelling is such that it would not be oppressive for the neighbours due to height and proximity.

5.5.2 The position of the new dwelling, distance to the boundaries and orientation of windows is such that no unacceptable impact on the amenities of the neighbours arising from a loss of light or privacy would arise, and there would be no undue noise/disturbance arising from the use of the accesses.

5.5.5 Subject to the above controls identified above, the proposal would not harm the amenities of nearby residents, and the development complies with the provisions of policies CLP2 and CLP20 of the Local Plan.

## **5.6 Other Considerations**

5.6.1 Ecology - The only other issue is the loss of the front boundary hedging for visibility and the impact on wildlife habitat, although the hedges could be removed in any event, and the Council has no control over their removal.

5.6.2 The development could be subject to conditions to require landscaping/habitat creation to off-set the loss.

5.6.3 Subject to conditions it is not considered that any ecology or wildlife would be harmed by the proposal which therefore complies with the provisions of policies CLP2 and CLP15 of the Core Strategy.

5.6.4 Ground Conditions – The site falls within the lower-risk area for Coal Mining Legacy, that is generally dealt with via standing advice, and through the Building Regulations.

5.6.5 Mature Trees – The tree officer indicates:- “There are 3 trees in a tree preservation order that may be affected by the proposed development reference T18 & T19 Lime and a replacement tree T21 Mountain Ash which are located on the west boundary of 140 High Street, Old Whittington. The proposed detached house will not directly affect the trees but construction activities around the build could cause compaction within the trees rooting environment which could be detrimental to the trees long term health and survival. A condition should therefore be attached for the protection of the neighbouring trees if consent is granted to the development”.

## 5.7 Community Infrastructure Levy (C.I.L)

5.7.1 Having regard to the nature of the application proposals the development comprises the creation of a new dwelling and the development is therefore CIL Liable.

5.7.2 The site the subject of the application lies within the medium CIL zone and therefore the CIL Liability is calculated (using gross internal floor space and is index linked).

		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Development type</b>	<b>Proposed floor space (GIA in Sq. m)</b>	<b>Net Area (GIA in Sq. m)</b>	<b>CIL Rate</b>	<b>Index permission</b>	<b>Index Charging schedule 2020</b>	<b>CIL Charge</b>
Residential (C3)	113	113	£50.00 (Medium Zone)	334	288	£6,552

### Calculation:

CIL Charge (E) is calculated as outlined below:

Net Area (A) x CIL Rate x BCIS Tender Price Index (at date of permission) (C)

BCIS Tender Price Index (at date of charging schedule) (D)

Therefore, the CIL charge liable for this application is as follows:

$$\frac{113 \times £50 \times 334}{288} = £6,552$$

288

## 6.0 REPRESENTATIONS

- 6.1 The application has been publicised by means of a site notice (expired 12.03.2020) and neighbour letters (publicity period expired 12.03.2020).
- 6.2 As a result of the applications publicity, 1 letter of objection was received from the adjacent neighbour at No 128 High Street which makes the following points:-
- The dwelling would sit on a bend in the road, and the plans do not show where the drive would be;
  - There is a path to the side and front of the dwelling which is essential and is used by numerous people on the estate, including elderly, disabled and school-children;
  - It is a short-cut to the shops and school from this end of the estate, and we are concerned about cars pulling out of the drive;
  - This is a blind-spot for cars pulling out into people on the path, and for cars coming around the bend;
  - No-one living on this bend parks on the road as it is narrow and dangerous.

#### 6.2.3 Officer Comments:-

The site utilises the existing access for the new dwelling so there is no greater risk from the new drive and the existing dwelling is to be provided with it's own access and parking under permitted development rights. The applicant is also to reduce the hedge to meet the highway visibility requirements. This is not a heavily trafficked route, and the impact would not be severe, as required by the NPPF before permission can be resisted on highway safety terms and in this case the Highway Authority raise no objections.

## 7.0 HUMAN RIGHTS ACT 1998

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
  - The objective is sufficiently important to justify the action taken
  - The decisions taken are objective and not irrational or arbitrary
  - The methods used are no more than are necessary to accomplish the legitimate objective

The interference impairs as little as possible the right or Freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law noted above.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

## **8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

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

8.2 Given that the proposed development does not conflict with the NPPF or 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 used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the web-site.

## **9.0 CONCLUSION**

9.1 The proposed development is considered to be an appropriate and logical infill within a residential area and the build-up limits of the settlement, and the development has been sited, detailed and designed such that the development proposals comply with the provisions of Adopted Chesterfield Local Plan Policies CLP1, CLP2, CLP3, CLP13, LP14, CLP15, CLP20 and CLP22; the wider National Planning Policy Framework (NPPF), and the Councils

Supplementary Planning Document on Housing Layout and Design  
'Successful Places'.

- 9.2 Planning conditions have been recommended to address any outstanding matters and therefore the application proposals are considered to be sustainable and acceptable.

## **10.0 RECOMMENDATION**

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

### **Conditions**

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
02. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment.
- Drawing Number - Un-numbered 1/1250 Location Plan and Site Plan;
  - Drawing Number – P1 – Proposed Floor Plans and Elevations.
03. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees on the neighbouring land, in accordance with BS 5837:2012, including a tree protection plan(s) (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.
  - b) Details of construction activities within the Root Protection Area (RPA) that may impact on the retained trees.
  - c) a full specification for the installation of boundary treatment works.
  - d) A specification for protective fencing to create a RPA to safeguard trees during both demolition 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

h) Boundary treatments within the RPA

The development thereafter shall be implemented in strict accordance with the approved details.

4. Before any other operations are commenced, the existing access to High Street shall be modified in accordance with the approved drawings, laid out, constructed and provided with visibility splays of 2.4m x maximum achievable over the site the subject of the application, No. 32 and publicly maintainable highway in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
5. The proposed dwelling shall not be occupied until space has been laid out within the site in accordance with the revised application drawing for car to be parked and replacement parking provided for the existing dwelling. Once provided, the spaces shall be maintained free from any impediment to their designated use for the life of the development.
6. There shall be no gates or other barriers on the accesses /driveways.
7. The proposed access/driveway to High Street shall be no steeper than 1:14.
8. Precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.
9. Prior to the occupation of the development hereby approved, details of the ecological enhancement measures to be implemented at the site to provide a biodiversity net gain shall be

submitted to the Local Planning Authority for consideration. Appropriate ecological enhancement measures shall include bird and/ or bat boxes and the details submitted shall include the number of units proposed and the location proposed. Only the ecological enhancement measures agreed in writing shall be implemented on site prior to the development hereby approved being first occupied. The ecological enhancement measures shall remain in perpetuity.

- 10 A residential charging point shall be provided for the dwelling with an IPD65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the Local Planning Authority. The electric charging point shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

### **Reasons for Conditions**

01. The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004.
02. In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.
03. Required prior to commencement of development 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 pursuant to section 197 of the Town and Country Planning Act 1990
- 04 In the interest of highway safety and to comply with Adopted Local Plan Policy – CLP22. The Condition is required to be prior to commencement in order to ensure that construction vehicles can enter and exit the site in a safe manner.

- 05 In the interest of highway safety and to comply with Adopted Local Plan Policy – CLP22.
- 06 In the interest of highway safety and to comply with Adopted Local Plan Policy – CLP22.
- 07 In the interest of highway safety and to comply with Adopted Local Plan Policy – CLP22.
- 08 In the interest of the visual amenity of the locality to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.
09. In the interest of the visual amenity of the locality and to ensure that there is a net-gain in bio-diversity at the site.
10. To encourage the use of sustainable transport modes.

## **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 & Environment 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](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp) E-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@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. The following British Standards should be referred to: a) BS: 3998:2010 Tree work – Recommendations b) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations

5. Coal Auth Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)