

**Item 3**

**VARIATION OF CONDITION 2 OF CHE/17/00359/FUL (ALTERATIONS AND CHANGE OF USE FROM PUBLIC HOUSE TO RESIDENTIAL USE COMPRISED OF 9 FLATS AND A SEPARATE 4 BED DWELLING) IN ORDER TO CONVERT DWELLING TO 5 BEDROOM HOUSE IN MULTIPLE OCCUPATION AT VICTORIA HOTEL, LOWGATES, STAVELEY, S43 3TR**

Local Plan: Unallocated

Ward: Lowgates and Woodthorpe

Plot No: 2/3437

Committee date: 15.02.2021

**1.0 CONSULTATIONS**

Chesterfield Borough  
Council Private Housing  
(HMO licence)

The property is best suited to 5 persons and requires a HMO licence. Proposal expected to accord with minimum space standards for bedrooms and kitchen/dining space.

Conservation Officer

No comments required

Derbyshire Constabulary

Concerns raised regarding HMO occupation being less desirable than single occupancy in respect of community safety and experience that a transient tenancy can impact community cohesion. Safer neighbourhood team outlined current problem profile areas which are in the vicinity of the site and are all social rented accommodation and all high rise or multiple occupancy. Concerns about the quantum of similar occupancy in locality having an adverse impact on community safety and recommends Refusal but if approved to include a management condition

Design Services Drainage

No comments required

Economic Development  
Environmental Health

No comments received  
No objections

Local Highways Authority

Previously approved development had 11 spaces for flats and a 4 bed house (presumed 2 spaces for the house and 1 space per flat). If the flats have more than one bedroom then this will be a bare minimum requirement even given the sustainable location. Given the existing consent and permitted development fallback I'd suggest it may prove difficult to demonstrate that 11 or 12 unallocated parking spaces would be inadequate, not to say I believe the original provision was adequate in the first place, just that the HMO may not generate many more, if any, than a 4 bed dwelling.

Planning Policy

Principle of residential development has been established through earlier permission and a residential use accords with Local Plan policies CLP1, CLP2, CLP3. Consideration of amenity (CLP4 and CLP20), highway safety/parking (CLP22 and CLP20) required

Representations

52 representations received – see report

Staveley Town Council

Concerns raised in respect of parking and proposal potentially adding to existing problems, increasing demand and concerns about access for emergency vehicles, no turning circle and large vehicles have to reverse down road. Concern about increase in crime/disorder. Impact on A619 and increase in traffic will increase likelihood of accidents. Consideration required of policy CLP20. Significant local opposition is noted.

Ward Members

Objection received from Cllr Lisa Collins in respect of highway safety, privacy, light, noise, anti-social behaviour and fear of crime

Yorkshire Water

No comments received

## **2.0 THE SITE**

- 2.1 The site subject of this application is a detached former public house known as 'The Victoria' situated at the junction of Lowgates and Wateringbury Grove. The site is located outside of the defined Staveley Conservation Area. The boundary of the conservation area is adjacent to the site and extends around the Gardens of Remembrance to the west.
- 2.2 In 2020 consent was granted for the removal of conditions requiring the retention of two protected cherry trees (Tree Preservation Order 4901.293 Victoria Public House, Lowgates (2009) - refence T1 & T2) and for replacement landscaping (see application CHE/20/00614/REM1). There are also six trees protected by Tree Preservation Order 4901.152 Staveley Conservation Area (1995) located in the Gardens of Remembrance to the west of the site.
- 2.3 The building is on the adopted Local List of Heritage Assets (entry No 85) and the description is as follows;
- 'Large Victorian inn constructed at the same time as the residential development on adjacent Wateringbury Grove in the 1890s. Given the location of the former Staveley Town Station on Lowgates it is likely that the pub would have been aimed at passengers using the local railway. The building is constructed in red brick and has pitched slate roofs. It is notable for areas of well-crafted decorative brickwork and original sash windows, some with margins. Two modern small ground floor porches have been added. The pub is currently closed with metal shutters on the ground floor.'*
- 2.4 Conditional permission was granted in 2018 for the conversion of the building into 9 flats and a separate 4 bed dwelling (see application CHE/17/00359/FUL). Outstanding conditions have now been discharged and works have commenced on site.

### **3.0 SITE HISTORY**

- 3.1 CHE/20/00614/REM1 - Removal of conditions 14, 15 and 16 of CHE/17/00359/FUL ( Alterations and change of use from public house to residential use comprised of 9 flats and a separate 4 bed dwelling) and replacement with new landscaping condition – **CONDITIONAL PERMISSION (16.11.2020)**
- 3.2 CHE/20/00197/DOC - Discharge of planning conditions 3 (materials) 4 (landscaping, bin storage, boundary treatments), 5 (windows and doors), 9 (employment and Training scheme), 10 (site storage provision) of CHE/17/00359/FUL (Alterations and change of use from public house to residential use comprised of 9 flats and a separate 4 bed dwelling) – **ALL CONDITIONS DISCHARGED (12.10.2020)**
- 3.3 CHE/17/00359/FUL - Alterations and change of use from public house to residential use comprised of 9 flats and a separate 4 bed dwelling at Victoria Hotel, Lowgates, Staveley, Derbyshire, S43 3TR for KAT Homes Ltd. Amended description and plans dated 10.07.2018, 23.07.2018 and 06.08.2018, Arboricultural Impact Assessment received 23.07.2018 – **CONDITIONAL PERMISSION (07.08.2018)**
- 3.4 CHE/14/00647/TPO - Fell both cherry trees and replace with 2 liquidambar styraciflua 14-16cm - **CONDITIONAL PERMISSION (04.11.2014)**
- 3.5 CHE/10/00276/TPO - Works to cherry tree – **CONDITIONAL PERMISSION (22.06.2010)**

### **4.0 THE PROPOSAL**

- 4.1 The application is made under Section 73 of the Town and Country Planning Act 1990 (As Amended) for the variation of condition 2 which requires the development to be undertaken in accordance with the previously approved plans.
- 4.2 The change sought in this application is to change the previously approved plans for a 4 bedroom house into a 5 bedroom house in multiple occupation (HMO). The previously approved application granted conditional permission for nine 1 and 2 bedroom flats and an attached house. The house component included 4 double bedrooms at

first floor level and a kitchen with separate living and dining room at ground floor level.

- 4.3 The current application proposes no alterations to the previously approved 9 flats element of the proposal. No elevational changes are proposed as part of the application as the previous applications dealt with the necessary changes required for the conversion.
- 4.4 The internal layout of the proposal comprises of 5 bedrooms each with en-suite facilities. The bedrooms are provided with a shared kitchen/dining room at ground floor level.
- Bedroom 1 with en-suite – measures 13.2m<sup>2</sup>
  - Bedroom 2 with en-suite – measures 15.4m<sup>2</sup>
  - Bedroom 3 with en-suite – measures 13.1m<sup>2</sup>
  - Bedroom 4 with en-suite – measures 17.7m<sup>2</sup>
  - Bedroom 5 with en-suite – measures 17.0m<sup>2</sup>
  - Shared kitchen/dining – measures 19.0m<sup>2</sup>
- 4.5 The site as a whole (proposed HMO and 9 flats) will be served by 11 parking spaces with motorcycle parking and cycle stands, designated bin storage and an area of private amenity space to the south of the building.
- 4.6 The Agent has provided the following supporting statement
1. *'The occupancy of the HMO will be one person per room. The applicant has stressed that they disapprove of dual occupancy in HMO rooms*
  2. *The HMO will be managed by a local agent and the applicant's own team, both are experienced in HMO management. The applicant is keen to stress that they provide the highest quality of residential accommodation, which can clearly be seen in the standard of design and also the quality of construction on site*
  3. *A total of two car parking spaces will be allocated to the HMO. You will be aware that it is unlikely that each person in the HMO will own a car. It will be the same with the apartments. Parking and traffic management here is not an issue. The traffic flow along Lowgates is light and the access onto the main road has clear sight lines.'*
- 4.7 The application is supported by the following drawings;
- Drawing 'Variation from 4 bed house to 5 bed HMO', drawing number 3/110 Revision C (dated 26.11.2020)

- Site Location Plan

## **5.0 CONSIDERATIONS**

### **5.1 Planning Policy**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

### **5.2 Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for location of development
- CLP3 Flexibility in Delivery of Housing
- CLP4 Range of Housing
- CLP14 A Healthy Environment
- CLP20 Design
- CLP21 Historic Environment
- CLP22 Influencing the demand for Travel

### **5.3 Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)
  - Delivering a sufficient supply of homes
  - Promoting healthy and safe communities
  - Promoting sustainable transport
  - Achieving well-designed places
  - Conserving and enhancing the nature environment

### **5.4 Relevant Supplementary Planning Documents;**

- SPD 'Designing Out Crime' (adopted June 2007)
- SPD 'Successful Places' A guide to sustainable housing layout and design' (adopted 24<sup>th</sup> July 2013).

### **Key Issues for consideration**

- Principle of residential use
- Amenity impacts on future occupiers and surrounding neighbours
- Highway safety and parking
- Drainage
- Conservation

- Other matters including CIL
- Representations

## **5.5 Principle of Residential Use**

- 5.5.1 The principle of the residential use of the premises was established by the earlier permission (which concluded that the development was acceptable) for which permission is sought to vary the conditional permission. In considering a Section 73 submission, the Planning Act only allows the Local Planning Authority to consider the issue of the condition(s). It cannot re-open the principle of the development, although a Section 73 application does result in the requirement to issue a new planning permission.
- 5.5.2 The sole issue in relation to this application is therefore to consider the implications of the condition variation – i.e. whether the proposed change from a 4 bedroom house to a 5 bedroom house in multiple occupation is acceptable.
- 5.5.3 The Victoria Hotel was a former public house situated in the defined built up area of Staveley (CLP3). The principle of the residential development and loss of the former public house has already been established through application CHE/17/00359/FUL and is not therefore an issue with the current submission. The proposal accords with Local Plan policies CLP1 and CLP2 as previously developed land in a sustainable location within walking distance of a range of facilities and amenities in Staveley Town Centre and therefore, this residential use in a varied form as a HMO, is acceptable in principle.
- 5.5.4 In addition, it is necessary to highlight the fall back position in respect of the proposal and under Schedule 2, Part 3, Class L of the General Permitted Development (England) Order 2015 (as amended) a dwellinghouse can be converted to a small HMO (of no more than 6 people) without requiring planning permission. It is therefore important to acknowledge that if the previously approved plans for a 4 bedroom dwelling were completed first then they could convert the dwelling to a house in multiple occupation, as proposed, as permitted development. This is a material consideration in this case and should be taken account of as a realistic fallback position.

## **5.6 Amenity Impacts on Future Occupiers and Surrounding Neighbours**

- 5.6.1 Local Plan policies CLP14 and CLP20 require consideration of the amenity impacts of proposal and should have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise, disturbance, traffic, outlook, overlooking, shading and other environmental impacts.
- 5.6.2 Local Plan policy CLP20 also requires consideration of adequate and safe vehicle access and parking, providing a safe, convenient and attractive environment for pedestrians, have an acceptable impact on the amenity of users and neighbours and be designed to be safe and secure and to create environments which reduce potential for crime.
- 5.6.3 Local Plan policy CLP4 seeks to provide a range of housing and increase choice, responding to emerging needs and to promote sustainable communities and for new developments to provide a range of dwelling types and sizes based on up to date evidence of housing need and location and characteristics of the area.

#### **Residential Amenity - Overlooking to surrounding dwellings**

- 5.6.4 The proposal does not seek to add additional windows beyond the previously approved window openings for the four bedroom house. The openings will therefore be as previously approved and the proposal is not considered to raise significant adverse impacts of overlooking sufficient to warrant refusal of the scheme.

#### **Accommodation provision for occupants and HMO Licence requirements**

- 5.6.5 Chesterfield Borough Council's Private Housing team were consulted on the proposal and provided the following comments in respect of HMO Licence requirements:
- *In terms of bedroom sizes they are more than adequate from our point of view; indeed, they are all suitable for 2 persons. The statutory minimum for a single person's sleeping accommodation in a licensable HMO, which this would be, is 6.51m<sup>2</sup> and for a couple it's 10.22m<sup>2</sup>. All rooms exceed this latter size. However, the limiting factor in terms of occupation levels will be the kitchen/dining facilities (since all have enSuites). We are currently reviewing the amenities guidance but as it stands it says the following (based on single occupancy of each room so 5 persons):*
  - *Kitchens – 6.5m<sup>2</sup> if used by 1-5 persons and for each additional person an extra 1m<sup>2</sup>. Dining space – 2m<sup>2</sup> per person. This would mean a total of 16.5m<sup>2</sup> So, the kitchen/diner is shown as 19m<sup>2</sup> + a small bay. On that basis it appears to meet the guidance that we*

*have. In terms of the dining/communal space, much will depend on the extent of the kitchen.*

- *We would expect to see the following facilities as a **minimum**: recommendation.*
  - *1 standard sink and drainer (plus would also recommend considering installing a dishwasher or second sink/drainage).*
  - *1 fridge freezer (though would suggest additional provision would be ideal)*
  - *Approx. 2.5m worktop with suitable splashback as a minimum – this ideally should also be greater and excludes any worktop taken up by the sink and cooker etc Sufficient storage for food stuffs for each individual tenant plus storage for crockery, equipment/appliances etc*
  - *We would also expect to see adequate clothes washing and drying facilities. We don't have guidance on this element yet but this would mean the provision of washing machine(s)/tumble dryer(s).*
- *All this encroaches into the dining space but a clever design should resolve this. Note – if it was proposed to have 6 persons then the kitchen/dining space would theoretically be just acceptable but facilities would have to increase significantly – extra sink/drainage, fridge freezer, worktop space, storage etc which would all impact the available dining space.*
- *The property is best suited to 5 persons*
- *This property will require an HMO licence before 5 persons can occupy; the licence will include all relevant mandatory conditions and our usual discretionary conditions.*

5.6.6 The standards referred to above by the Private Housing team are relevant to the licensing of the proposed HMO. The applicant will need to ensure that the proposal adheres to the relevant housing standards to gain a licence from the Council to operate a HMO. This is therefore a residential use that is controlled by the Council through other more specific legislation.

5.6.7 The adopted Successful Places SPD requires suitable outdoor amenity space for occupants and the proposal does not provide any additional amenity space (beyond the area allocated under application CHE/17/00359/FUL). The available amenity space is restricted and whilst the proposal will increase the intensity of the use the impact on the amenity of future occupiers in respect of the previously approved 4 bedroom dwelling is not considered significant or different enough to

warrant a refusal, as the occupation levels are not considered to be substantially different.

- 5.6.8 On the basis of the comments above the proposal would meet the licensing requirements for 5 people and whilst the shared kitchen/dining space is restricted the rooms are larger than required to meet the requirements of the licence and en-suite bathrooms are also to be provided. It is therefore considered that the development proposals provide acceptable space standards for occupants.

### **Residential Amenity – Noise, Disturbance, Crime and Anti-Social behaviour**

- 5.6.9 Local resident representations received make reference to potential noise and disturbance arising as a result of the proposal with concerns surrounding potential anti-social behaviour and a fear of crime. The Derbyshire Constabulary (in conjunction with the Safer neighbourhoods team) has been consulted on the proposal and they have provided the following comments;

- *As the principle of residential occupation at this former public house has been established in the determination of application 17/00359 our comments will concentrate solely on the matter of whether or not part change from single to multi occupancy is acceptable, and if not, any associated condition of approval which might make the change acceptable.*
- *Their comments centre around the proposal for HMO occupation being less desirable than single occupancy, and certainly owner occupancy from a community safety perspective. Concerns were that a transient tenancy with little investment in community cohesion were becoming problematic in context, with I'm led to believe the town centre of Staveley approaching 20% social rented occupancy.*
- *In respect of the current application there is clearly significant public concern over the proposed variation of condition, on face value much more than any expressed for the original application. I'm aware that residents have lobbied the area Police Safer Neighbourhood Team, who have in turn sought my advice.*
- *Comments are made in consultation with them as the operational element of policing in the town. There is little to be said from a design perspective, so I'm very much reliant upon them to paint a picture of what might be a concern to us in the locality.*
- *As indicated earlier their comments centred around the proposal for HMO occupation being less desirable than single occupancy, and*

*certainly owner occupancy from a community safety perspective. Concerns were that a transient tenancy with little investment in community cohesion were becoming problematic in context, with I'm led to believe the town centre of Staveley approaching 20% social rented occupancy. Active ownership of private space and territoriality brings a strong effect upon the cohesion and related community safety of residential development. Whilst there are no guarantees that any one form of tenure would be successful in any given place, as this often rests on the behaviour of individuals, in my experience the further tenancy moves away from owner occupiers and market housing towards a more transient occupation, the more likelihood there are of social, disorder and in the extreme crime related problems.*

- As an example the Safer Neighbourhood Team have outlined their current problem profile areas for instances of public order, which are all in the vicinity of the application site, all social rented accommodation centered, and all high rise or multi-occupancy.*
- The one other HMO in Staveley was until recently also a regular problem area until they were moved to provide their own private security provision.*
- If you are unable to resist this application on policy grounds of either site specifics or the quantum of similar occupancy in the locality having an adverse effect upon community safety, then potentially a management condition may go some way to mitigating against the potential adverse effect and in turn easing public concern, although the opportunity for on site management looks to be limited within the design submitted.*
- So in summary my advice would be to resist the application for the reasons outlined, with a view to requiring site management if approved.*

#### 5.6.10

The comment above from the Derbyshire Constabulary make reference to the type of tenancy and suggest that the town centre of Staveley is approaching 20% social rented occupancy. The comments continue to imply that this has a direct link with community cohesion and references their own experience that as tenancy moves away from owner occupiers and market housing towards a 'transient' occupation there is more likelihood of crime related problems and social issues. The comments reference non-specific examples provided from the safer neighbourhood team in the vicinity of the application which relate to social rented and high rise or multi occupancy properties. The comments conclude that if the application cannot be refused on policy grounds or quantum of similar occupancy having an adverse impact on

community safety then a management condition may help to mitigate potential adverse impacts.

- 5.6.11 In response to the comments from Derbyshire Constabulary the Local Planning Authority asked for further information on the examples provided by the Safer Neighbourhood Team in respect of current problem profile areas in the vicinity of the site to assess whether the proposal will serve to exacerbate an existing problem which would therefore warrant a refusal. Such decisions can only be taken on the basis of such evidence and facts since the notion that social housing automatically results in crime and ASB can only be attributed less weight in the planning balance. Sensitive information has been provided by the police to the Local Planning Authority (which cannot be disclosed in full due to confidentiality) and will be briefly summarised. Specific properties are referenced for calls for service involving disorder/crime/drug related incidents however they were not in the immediate vicinity of the site and were not HMOs. Reference was also made to traffic related calls for service on Lowgates in the vicinity of the proposal and which were found to occur at school drop off/pick up times and were therefore outside of the control of the Local Planning Authority.
- 5.6.12 Chesterfield Borough Council are legally required to publish an up to date list of registered HMOs in the borough and there are currently no licensed HMOs in Staveley. There may however be some smaller HMOs which do not require licensing or planning permission operating in the area, of which the Local Planning Authority have no control.
- 5.6.13 In planning terms the proposal seeks to provide a residential use (which was previously accepted as appropriate) and will provide flexibility in the housing offered in a sustainable location. The proposal for a HMO does not necessarily mean that the occupants will cause issues for the community or will be inconsiderate neighbours and it is unreasonable for the Local Planning Authority to refuse planning permission based on such assumptions. The Agent has verbally confirmed that they would be amenable to a management condition on an approval. However, such a management requirement is likely to be a part of the licensing process and in planning terms such a condition would not meet the tests for conditions as it would be difficult to enforce and is not necessary to make the proposed use acceptable.
- 5.6.14 The Agent has confirmed that the applicant has experience of managing HMOs and will require references for occupants. If anti-

social behaviour arises from future residents of the building, as suggested by objectors this will be a matter for the Police. It is also considered that careful management by the property owner can help to ensure that there are less likely to be amenity issues in the area however this is not a matter which can be appropriately controlled by the Council as local planning authority. As noted by the Police there is no guarantee that at any one form of tenure would be successful in any one place as this rests on the behaviour of the individuals.

- 5.6.15 The Local Planning Authority do not control who resides in a residential dwelling in any circumstance whether it be a house, flat or other form of residential accommodation and it would therefore be wholly unreasonable for the Local Planning Authority to seek control on this matter.
- 5.6.16 The Council's Environmental Health Officer was consulted on the proposal and they have raised no objections to the development.
- 5.6.17 The Council's Housing Delivery Officer was also approached, and he confirmed verbally that there is no specific evidence to either demonstrate an identified need or an existing oversupply of this housing type in the area.
- 5.6.18 In conclusion the proposal will provide acceptable levels of living accommodation for future occupants and will not result in adverse impacts of overshadowing, overlooking or loss of privacy and accords with relevant aspects of CLP14 and CLP20. The proposal will provide residential accommodation in a sustainable location with a mix of accommodation which accords with CLP4.
- 5.6.19 The main issue in this case relates to the consideration of the difference between the agreed 4 bedroom dwelling which could have been occupied by a large family unit, compared with to the proposed 5 individuals in a HMO. It is considered that the differences would be insignificant in so far as impacts on noise, disturbance, crime and anti-social behaviour and parking requirements. Neighbours and consultees have raised concerns about future occupants and the impact they may have on crime and antisocial behaviour. Comments made by the Derbyshire Constabulary have been noted. It is considered based on the evidence provided that the proposal will not result in any oversaturation of one particular type of accommodation resulting in adverse impacts on the surrounding residents. No evidence is available to suggest that the proposal would fuel an

existing problem. It is considered reasonable to ensure the development is only for the occupancy of the 5 residents and this would be controlled via the Councils separate licensing procedures

5.6.20 National planning guidance encourages the creation of sustainable, inclusive and mixed communities by delivering a well-integrated mix of decent housing types for different types and tenures to support a range of households of different sizes, ages and incomes and on balance it is considered that the proposal accords with CLP1; CLP2; CLP3; CLP4; CLP14 and CLP20 of the Local Plan.

## 5.7 **Highways Safety and Parking**

5.7.1 Local plan policies CLP20 and CLP22 require consideration of highway safety and parking provision. The Local Highway Authority (Derbyshire County Council) provide the following comments;

- *As off-street parking is just that, off-street and not highway, I only point out the deficiencies of having insufficient provision. I take it that it's proposed the site will contain 9no. flats and a 5 bed house of multi occupation.*
- *Not sure about the HMO but Residential hostels/ community homes required 1 space per 4 bedrooms or 2no. spaces plus 1no. space per 3 residential units for sheltered accommodation (seems to imply some sort of staffing).*
- *I know that there's a school of thought which supports less of a need for parking per unit if spaces within a parking court are unallocated i.e. more likelihood of all spaces being utilised rather than have some empty whilst other units may require additional.*
- *If the approved development had 11no. spaces for the flats and a 4 bed house, presumably the latter would be considered to require 2no. of the available spaces leaving 1no. space per flat. If any of the flats have more than 1 bedroom, I'd have thought that this would be an absolute bare minimum requirement even given the sustainable location. It would, therefore, come down to adequacy of 2no. spaces, possibly 3no. if motorbike space isn't required (what was the basis of this initially and has that reason now gone?), to serve the 5 bed HMO. Using the above scenarios, whichever may be considered most applicable, hostel would require both spaces and sheltered accommodation would be 2no. short of the former maximum guidance.*
- *It will be interesting to see what the agent comes back with to support the level of parking available. However, given the existing consent and proposed change (that you indicate would be PD*

*anyway if already implemented), I'd suggest it may prove difficult to demonstrate that 11no. or 12no. unallocated parking spaces would be inadequate – that's not to say I believe the original provision was adequate in the first place, just that the HMO may not generate many more, if any, than a 4no. bed dwelling.'*

5.7.3 The comments on the proposal above indicated that 1 space per flat and 2 spaces for the proposed HMO would be a bare minimum requirement even given the sustainable location. The Highways Officer references the now withdrawn guidance and suggests that the proposal is 2 spaces short of the withdrawn recommended maximum. It is necessary to note that the figures referenced are a recommended maximum and therefore the Local Planning Authority is required to consider existing parking availability and the location of the development taking into account the existing approved development as the fall back position. On this basis it is not considered that the provision of a 5 bed HMO will generate more requirement than the previously approved 4 bedroom dwelling. This is accepted by the Highway Authority. Whilst it is accepted that the scheme will be less than 1 space per bedroom it is considered to be in a sustainable location with access to public transport.

5.7.4 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. On this basis it is not considered that the proposal will result in any severe adverse impacts on highway safety or the road network when compared with what has already been accepted on the site.

## **5.8 Drainage**

5.8.1 The building has existing drainage on site and the proposal does not significantly alter the existing situation. The Council's Design Services Drainage Team were consulted on the scheme and had no further comments to make.

## **5.9 Conservation**

5.9.1 The Council's Conservation Officer was consulted on the proposed and had no comments to make on the application

## **5.10 Other Matters**

- 5.10.1 On the basis that the local planning authority is only allowed to consider the specific issues raised by the issue of the condition the local planning authority cannot re-open issues which are not relevant to the variation of the condition.
- 5.10.2 Any permission granted will need to include all the previous conditions of the original permission unless they have been superseded, satisfied or complied with. The permission issued needs to reflect the up to date position in so far as each condition is concerned.
- 5.10.3 The Community Infrastructure Levy (CIL) position has been established as part of application CHE/17/00359/FUL and has been paid. The alterations proposed as part of this application will not result in the creation of additional residential floorspace and therefore no further details or payments are required.

## **6.0 REPRESENTATIONS**

- 6.1 The application has been publicised by site notice, advert and neighbour notification letter. At the time of writing this report 52 written representations (from 38 properties) have been received including one letter on behalf of the Lowgates Residents Association. All representations are available to view on the Council's website and a summary of the main concerns raised is detailed below;
- 6.2 Lowgates Residents Association - Object

**Maximum occupancy** - Understand that the proposed 5 bed HMO could house between 5 to 10 unrelated adults, however due to the lack of facilities and small kitchen it may be limited to 6 adults, but this may be decided after the planning permission has been granted. Our objection is based on the assumption that there will be 5 unrelated adult occupiers.

**The two stage application process** - question the motive behind Kat Homes Ltd.'s two stage approach to this planning application. It is clear that Kat Homes Ltd. always intended to have an HMO on this site from their initial enquiries of the planning department in 2018 but amended their original application to exclude the HMO after receiving objections to the HMO by the neighbours and Derbyshire Constabulary. – Reference to the Committee Report dated 6 Aug 2018. This two stage process may have been intended or may be for completely innocent reasons. However, whatever the reason, the

effect has been to water down the impact of the whole scheme and, reduce the number of objections that the local neighbourhood would have made if the original application that was passed had included an HMO. Arguably, the HMO was one step too far for the original application and it was omitted because it may have resulted in the whole development being refused. We ask the planning committee to consider this application for change of use together with the application that has already been approved and consider the effect of the whole scheme on the neighbourhood as well as the added problems that will be a result of the HMO.

**Adequacy of parking** - Parking is a big problem on Wateringbury Grove, even before the 9 flats and 4 bed house are built, especially at night time when residents who are working, return home from work. We argue that the original planning application for 9 flats and a 4 bed house did not make enough provision for parking, although no doubt it met the minimum requirements. The original planning application allowed for one parking space for each of the 9 flats (some of which are 2 bed roomed) and 2 parking spaces for the 4 bed house and no provision for visitors. A family house would typically have 1 or 2 cars. Whereas all 5 adults in the HMO could have a car, with a provision for parking only 2 cars, this could be at least 3 extra cars from the HMO, that require on street parking, on a street that is already full. In addition to this the 5 unrelated adults in the HMO are likely to attract more visitors than a 4 bed family house and there is already no provision for visitors car parking.

On Wateringbury Grove there are 28 houses, all are terraced, 22 of these do not have a driveway or garage. Consequently, most of the residents only have on street parking. There is only enough room on the cul-de-sac to park one car outside each house. Many of the houses are occupied by families that need 2 vehicles for work. Wateringbury Grove directly abuts the busy A619, there are no adjoining streets for residents or visitors to park on and there is no parking on the A619. A photograph of Wateringbury Grove taken at tea time when some of the residents had returned home from work is provided. The HMO would be contrary to Policy CLP20 of Chesterfield Borough Council's Local Plan (July 2020)

**Adequacy of loading** - Since the old pub car park has been fenced off due to the building work, loading has become a big problem. At busy times, cars park right up to the junction with the main road and if no parking is available there, then on the main road itself. A photograph is provided.

For large delivery vehicles the problem is just as bad. Charlie's Chip Shop has a small rear yard that is never used by delivery lorries

because the entrance is too narrow and it is too close to the junction. Barginz Beds and Carpets has no access for delivery vehicles to the rear as it is over a narrow strip of land belonging to a neighbour. Consequently, all deliveries for both shops load and unload when parked on the corner of Wateringbury Grove or if parking is not available there, then on the main A619 outside the shops. Any parking in this location on the main A619 is particularly dangerous. It is just below the brow of a hill and blocks the view of vehicles trying to exit Wateringbury Grove. It also blocks the view of the Pedestrian crossing which is very close to the proposed new entrance to the HMO. This is contrary to Policy CLP20 of the Local Plan.

The dustbin lorry already has problems accessing the bins and has always reversed down the cul-de-sac and loaded between the 2 rows of parked cars which blocks the single file road for all other vehicles. We understand that there is no provision for the dustbin lorry to load or turn on the new development and this will cause more problems near the proposed HMO, close to the junction.

Delivery vans for the houses are usually forced to unload between the 2 rows of parked cars, again this blocks the single file traffic, and because they do not know to reverse down because there is no turning, they usually have to reverse back up the cul-de-sac and attempt a three point turn in the pub carpark, which will no longer be available. This situation will only get worse if more cars are parked near the top of the road due to the HMO.

The original application for a 4 bed house has a rear entrance from the downstairs kitchen into the rear car park. The proposed alteration to the HMO, turns the downstairs kitchen into a bedroom and blocks this rear entrance to the property. This will increase the loading issues for the HMO as the only entrance to the HMO would directly abut the A619. Parking on the busy A619 outside this sole entrance to the HMO for loading/unloading would be very dangerous.

### **Adequacy of turning**

Wateringbury Grove is a narrow cul-de-sac and cars are allowed to park on both sides. There is no turning circle at the bottom of the cul-de-sac. Due to the parked cars the road is only passable with single file traffic. Where the cars are parked opposite each other, three point turns are impossible even with a small car because it is too narrow. Consequently if you pull onto Wateringbury Grove and a car is pulling out further down you are forced to use the pub car park to make a three point turn and allow the oncoming vehicle to exit. With the planning permission that has already been granted, this turning facility has been lost, vehicles will now be forced to attempt to reverse onto the busy A619 or attempt a U-turn at the junction, if they see an

oncoming vehicle exiting Wateringbury Grove. This situation is dangerous and contrary to s201 of The Highway Code. A photograph is provided. For large vehicles turning on Wateringbury Grove is impossible. The dustbin lorry knows to reverse down the cul-de-sac for this reason, as do the delivery vehicles that regularly visit the shops. Any lorries or delivery vehicles that do not know about the problem are forced to try and turn around in the pub car park, which will now be no longer available or attempt a turn at the mouth of the T junction probably mounting the kerb causing a danger to pedestrians. If the HMO has 2 parking spaces and 5 residents with cars, then this will increase the traffic and the turning problem will get worse.

**Loss of amenity for parking/turning/loading** - The original planning application did not make sufficient consideration of the loss of the existing use of the Victoria Hotel car park. Whenever parking has not been available on Wateringbury Grove, the pub car park has always been used as an unofficial public car park, by all the residents and their visitors and the delivery vehicles and customers of Charlie's Chip Shop and Barginz Beds and Carpets. The new development will take away this facility and the proposed HMO will only worsen this already bad parking problem, with the potential for further cars.

**Highway safety** - The Derbyshire Times has reported the A619 to be the second most dangerous road in Chesterfield. The 4 bed house had a rear door that opened into the rear car park but the only door to the proposed HMO would open directly onto the pavement of the A619. This door is situated very close to the Pelican crossing and the T-junction with Wateringbury Grove.

This Pelican crossing, due to its proximity to Netherthorpe school is especially busy during school term time. It is also regularly used by the elderly residents of a housing scheme on the opposite side of the Road to Wateringbury Grove.

The HMO entrance is in close proximity to the bus stop on the A619 west bound, just below the brow of the hill, near the Pelican Crossing, T junction and shops, when vehicles overtake stationary buses they have an impaired view of oncoming traffic and pedestrians.

The increased number of adult occupants in the HMO and the associated increased number of visitors and the lack of a rear door that was included for the 4 bed house in the original application, would increase the disruption to this area.

**Congestion on the A619** - The A619 is a very busy road, all traffic travelling south on the M1 towards Chesterfield exit at junction 30 and travel through Lowgates and Staveley. We have long been promised a Staveley by-pass but this has never materialised. Any increase in

congestion as a result of the HMO, would be unwelcome and contrary to the Local Plan.

**Access for Emergency Services Vehicles** - There is a possible fire hazard which would be exacerbated by the HMO. Wateringbury Grove is a narrow cul-de-sac with cars parked on both sides and no turning circle at the bottom. If the car parking at the top near to the proposed HMO causes an obstruction then a fire engine or similar emergency services vehicle may not be able to access the properties further down the cul-de-sac.

**Noise and disturbance resulting from use** - The 5 bed HMO, with its adult occupiers and their visitors, would be more likely to create more noise and disturbance at all times of the day and night, compared to the 2 adults that would typically be associated with a 4 bed family home. This would be contrary to policy CLP14 of the Local Plan.

**Proximity to the Gardens of Remembrance** - The development would be contrary to Policy CLP20 of the Local Plan. The Gardens of Remembrance and War Memorial have traditionally been used as a place of quiet reflection. The HMO would be a direct neighbour to the Gardens of Remembrance. The War Memorial has the names of many people's family and friends on it and every Remembrance Sunday, many members of the local community together with local Councillors, Armed Forces veterans/cadets, Emergency Services, Scouts, Girl Guides, Cubs and Brownies all meet there for the Remembrance Service. Local residents have reported recent anti social behaviour here, including drug and alcohol abuse and inappropriate sexual behaviour. Any increase in this type of behaviour in this area would be unwelcome.

**Overlooking/loss of privacy** - The original application required the chopping down of two large protected trees that were providing privacy to neighbouring properties. Arguably, the large trees could have been saved and the wall that they were damaging rebuilt, however this would have been a more expensive option. A photograph is provided.

**Over-development and density of occupants** - Taking into account the 9 flats that have already been approved, the HMO would create an over development of the site, with a high density of single adults who are occupying properties. The approved planning permission for a family 4 bed roomed home balanced out the development and was in keeping with the character of the area.

**Character of the area** – Reference to Policy CLP20 of the Local Plan. Wateringbury Grove is a quiet cul-de-sac, all the houses are family homes with many young children and elderly residents. It is a direct neighbour of the Gardens of Remembrance and War Memorial and

very close to Staveley Church. The function of an HMO is not in character with this particular location and is contrary to policy CLP20.

**Loss of community** - Most of the residents on Wateringbury Grove and in Lowgates are long term residents and are part of the local community. The Victoria Hotel is an iconic Staveley building that has been a central part of the local community. The old bowling green to the Vic was sold off for building land a few years ago and there has been a gradual erosion of community spirit over recent years culminating in the closure of the pub. The pub was a long term local employer and social centre, most local residents were sorry to see it close as a pub and wanted the building to continue to be part of the community. Allowing the original application to be passed was opposed by most local residents as losing the pub created a loss of community. Allowing a change of use into an HMO, with transient short term renters that do not contribute to the area or community would only increase this loss of community and rub salt into the wounds.

**Demand for an HMO** - We understand that Kat Homes Ltd may say that they specialise in HMOs for construction workers, this is a niche market and may sound like a good idea but what happens if there are no construction workers? would the HMO stand empty? There is already a similar HMO for workers, in Hollingwood that has free rooms so there is no demand for this type of property in this area. And, 5-10 construction workers returning at night, all with vans, would exacerbate the parking problem. In any event, it is illegal to discriminate between workers and unemployed when advertising property to let.

**Fear of Crime** - The proposed HMO is in close proximity to a housing scheme for 20 elderly and vulnerable people, with another sheltered housing scheme only a couple of minutes walk away. Some of the residents on Wateringbury Grove are elderly and vulnerable, others are families with young children, others are working mums who are on shift work that means they are leaving home or arriving back late at night. Once planning permission has been granted for an HMO there can be no restriction placed on the type of occupants. The influx of 5 or more unrelated adults in an HMO, who for whatever reason may be short term renters, passing through or have no particular affinity to the area, would greatly increase the fear of crime such as burglary, drug/alcohol abuse, violence and antisocial behaviour for the existing residents and adversely affect their mental health.

**Derbyshire Constabulary's objection to an HMO** - The original planning application was granted on the understanding that the development would not involve an HMO, as concerns were raised by both the local residents and Derbyshire Constabulary. Therefore, this change of use

would contradict a fundamental reason for granting the original planning permission.

For this application, Derbyshire Constabulary Comments dated 29 Jan 2021 express numerous concerns about the HMO,

**Covid 19** - We ask the planning committee to consider the effects of the Coronavirus epidemic on the local residents' ability to attend meetings and object, in the middle of Winter when they are under lockdown and can only leave their homes for essential reasons. Local residents have seen previous messages on the post outside this development and it was not until very recently that anyone noticed that this application was different to the previous ones. Kat Homes Ltd. may have met the minimum requirements for notifying the 2 immediate neighbours about the change of use but nobody else in the neighbourhood knew about it, they had not seen the small notice in the Derbyshire Times and the immediate neighbours that did receive a letter just dismissed it as an update about the development.

We understand that the Planning Committee will be considering this matter on 15th Feb and we ask if two local residents who are members of the Lowgates Residents Association can address the Committee via Zoom.

### 6.3 Ward Member Councillor L Collins - objects

Highways - Wateringbury is a narrow dead end road with no room for turning at the bottom. The street is regularly filled with parked cars on both sides at any time of the day. The refuse collectors struggle and that's when most people are out at work. The traditional terraced dwellings have a very small front yard and no way of parking off road. The newer houses do have drives but these are small and get 1 car on, many who reside here have 2 cars. It is ludicrous to think that another 14 dwellings won't add to this already dangerous problem. If there were to be a fire, an engine would struggle to make its way to a property any further than a 1/3 of the way down the street. This danger is even more ridiculous when considering the proximity to the fire station in Staveley. Simply- there is already inadequate access to safe parking.

Privacy - Those residents in closest proximity will lose their privacy and will be overlooked. Similarly, the fact that the application is now for a HMO- that means instead of a family living in the old pub, there's likely to be between 5-10 individuals plus those who would reside in the 9 flats! This is simply too big of a development for the street.

Light - Any development that is extra to the original building will mean a loss of natural light to those properties in closest proximity to the building.

Noise - As a HMO, more like a bed sit, it is highly likely that occupants will be coming and going at all hours. This street is predominantly occupied by families and HMO are generally free flowing with short term residents so no sense of wanting to settle into the community.

ASB – The local community has very specific and genuine concerns about this development. The close proximity to 2 Sheltered Housing Schemes and the Gardens of Remembrance. The police have concerns about HMO in this area as ASB is already a drain on resources and has a profound, negative effect on the locals. There is drug taking in the gardens and sexualised behaviours reported in there. Surely, a HMO and further flats (most likely to be occupied by younger adults) will add to this problem. I believe, that Derbyshire Constabulary did have concerns originally but as the HMO wasn't mentioned they didn't make any comments.

Fear of Crime - HMO generally come with a negative press and the local residents who have contacted me do fear that crime will increase if this development proceeds. I would also like to add that the neighbouring residents have not had a letter about this, should they have had? If so, the time scale will need to be lengthened.

I would like to be able to speak to Committee if this application comes before them.

#### 6.4 Staveley Town Council – Object

The Committee met last night and would like to express the following concerns:

- Parking is already an issue in this area and this proposal will potentially add significantly to the problem. There is no off street parking and the impact on neighbouring Wateringbury Grove is likely to be increased demand and pressure for parking spaces. This will also potentially mean that emergency service vehicles struggle to gain access for emergency call outs.
- There is no turning circle nearby and dustbin wagons already struggle- having to reverse and increasing the danger to pedestrians.
- The Committee are concerned about the potential for increased crime and disorder. The Committee note that the police have objected to the proposal.

- This area is near the busy A619 and any increased traffic will increase the likelihood of accidents. Schoolchildren and the elderly use the nearby crossing.
- The Committee ask that consideration be given to how this proposal sits with the requirements of planning policy CLP 20
- The Committee also note that there is significant local opposition to this amendment.

6.5 Local Residents – 52 representations have been received raising the following points:

- Noise and disturbance
- Contrary to planning policy
- Residential amenity
- Visual amenity
- Loss of privacy
- Concerns regarding anti-social behaviour, fear of crime and safety
  - my experiences at work are a major factor in why I object to this new proposal and I mainly draw upon them for the following reasons. In the area that I work, many of what were once family homes or community spaces have now been bought up by large property developers and businesses. Regardless of the initial intentions of these developers, these properties are the properties that I am called to respond to most often; HMOS in particular.
  - Drug use, domestic violence, theft, burglary and ASB are inevitable when properties are not built with a home and the community in mind. This will no doubt be the reason why Derbyshire Constabulary took issue with the initial proposal. I am sure that KAT HOMES LTD will claim that the residents they rent to will be of the best character, a claim I am sure all property developers make. However it is not simply the character of any prospective residents that is the ultimate issue – it is much bigger. It is the very nature of a HMO: a building constructed to house as many people as possible for as little cost as possible, a building built purely for profit. A HMO is not a home. And our community takes issue with it for this very reason.
  - This community and in particular this street comprises young families and elderly residents, the majority of whom are long term residents of the area. A HMO is simply not in keeping with this.

- Pollution
- Overcrowding, high concentration of people in a small area
- Impact on house prices
- Local amenities already stretched
- Street is family orientated with young and older residents
- Concern about impact on remembrance garden and possible disturbance/noise as the gardens contain a war memorial which includes the names of local residents and their families, friends and local community groups visit to pay respects. Impact of an overpopulated building housing transient renters/workers coming and going at anti-social hours will do little to pay respect to this memorial and to maintain this peace.
- Should have been left as a pub which brought people together
- Not suitable/inappropriate for area, not wanted in the area
- Ruin character of the building and impact quiet cul-de-sac and residents
- Already a HMO in Hollingwood
- Attract 'the wrong people' - area needs bringing up not down, impact on the community
- Highway safety, traffic and parking
  - limited parking for existing residents particularly at the end of the street which is busy due to takeaway, increase in cars would cause parking problems and add to existing parking issues for residents who are unable to park in front of own house and have to walk in the dark to properties.
  - Many houses with limited parking proposal for 9 flats and a house will cause significant parking issues with no turning point
  - Road at full capacity, adding another 10 dwellings impact on road
  - Difficult access for emergency vehicles already, street is narrow and busy
  - residents required to reverse down street as unable to do a full turn
  - difficult to access A619 due to number of vehicles and speed of travel
  - additional residents, visitors with cars vans etc will create a danger to children and elderly
  - Junction to Lowgates is dangerous and busy with many cars coming to the takeaway
  - increase in cars will add to traffic at this junction resulting in safety concerns

- Lack of parking will impact local businesses
- Concerns about impact of proposal on traffic on Lowgates and concern about cars parking on the main road of near the zebra crossing resulting in congestion. Example provided of a death of a young cyclist occurring on Lowgates
- Examples provided of new residents being asked politely by existing residents not to park in front of their houses and said visitors to the street usually park in Victoria pub car park
- Residents can no longer use the pub car park as an unofficial 'overflow' as it is fenced off
- Planning permission granted has taken away the parking and turning facility for residents
- Concerns that the proposal could be for 5 bedrooms and 10 people with 10 cars and only 2 spaces are allocated for residents of the HMO
- Some residents have two cars and there is only room for one car outside each house. There are 28 terraced houses on Wateringbury Grove and 22 houses have no driveway or garage
- Parking situation is worse at night when residents return from work
- Local businesses e.g. Bed and Mattress shop sometime required to park on A619 to load and unload making it impossible to pull out safely. Residents required to pull out of junction at speed to avoid colliding with oncoming traffic a hazard which happens daily. Combining all this with the lack of view afforded by the bridge and the adjacent pedestrian crossing, often used by Netherthorpe School children, it is at present an accident waiting to happen.
- The initial proposal by KAT HOMES LTD, granted to them by yourselves, made available eleven parking spaces in the old pub car park. These 11 spaces were to be divided as follows: one for each resident of the nine flats and two for the four-bed family home. Although this is not ideal, with some flats likely to have more than one car and also having to accommodate their visitors, this was held to be a reasonable compromise by the committee. This has now changed. KAT HOMES LTD have requested to convert the 4 bed family home into a five-bed HMO. This will bring with it a number of further vehicles without any provision being made for parking space. There is very limited parking space at present. There is a difference between inconvenient and dangerous. As a police officer I regularly attend fatal road traffic collisions and witness the

aftermath; I regularly attend residential addresses on blue lights to urgently assist victims, Ambulance and the Fire service. Wateringbury Grove is already a cause for concern to me at present. I can see that the outcome of the new proposal is dangerous and it worries me.

- Planning permission given on misleading information, original permission has changed
- People not informed of the proposal
- Developer not concerned with welfare of community
- Views of residents and local community felt to be unimportant/disenfranchised due to lack of notice and opportunity to raise concerns
- I am pro-development and I am keen to see the Victoria pub restored as a central part of the community. I thank KAT HOMES LTD for interest in this. However I am vehemently opposed to this happening at the expense of others: not only at the expense of the local residents of Lowgates but also at the expense of the tenants of the proposed development. KAT HOMES LTD are sacrificing what could be a four-bedroom family home in favour of a cramped, five-roomed bedsit.

## **7.0 HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
  - The objective is sufficiently important to justify the action taken
  - The decisions taken are objective and not irrational or arbitrary
  - The methods used are no more than are necessary to accomplish the legitimate objective
  - The interference impairs as little as possible the right or freedom
- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

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

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

## **9.0 CONCLUSION**

- 9.1 The principle of the residential use of the premises was established by the earlier permission (which concluded that the development was acceptable) for which permission is sought to vary the conditional permission. In considering a Section 73 submission, the Planning Act only allows the Local Planning Authority to consider the issue of the condition(s). It cannot re-open the principle of the development, although a Section 73 application does result in the requirement to issue a new planning permission. The sole issue in relation to this application is therefore to consider the implications of the condition variation – i.e. whether the proposed change from a 4 bedroom house to a 5 bedroom house in multiple occupation is acceptable.
- 9.2 The Victoria Hotel was a former public house situated in the defined built up area of Staveley (CLP3). The proposal accords with Local Plan policies CLP1 and CLP2 as previously developed land in a sustainable location within walking distance of a range of facilities and amenities in Staveley Town Centre and therefore, this residential use in a varied form as a HMO, is acceptable in principle.
- 9.3 The proposal will provide acceptable levels of living accommodation for future occupants and will not result in adverse impacts of

overshadowing, overlooking or loss of privacy and accords with relevant aspects of CLP14 and CLP20. The proposal will provide residential accommodation in a sustainable location with a mix of accommodation which accords with CLP4.

- 9.4 It is considered based on the evidence provided that the proposal will not result in any oversaturation of one particular type of accommodation resulting in adverse impacts on the surrounding residents. No evidence is available to suggest that the proposal would fuel an existing problem. It is considered reasonable to ensure the development is only for the occupancy of the 5 residents and this would be controlled via the Councils separate licensing procedures.
- 9.5 National planning guidance encourages the creation of sustainable, inclusive and mixed communities by delivering a well-integrated mix of decent housing types for different types and tenures to support a range of households of different sizes, ages and incomes and on balance it is considered that the proposal accords with CLP1; CLP2; CLP3; CLP4; CLP14 and CLP20 of the Local Plan.
- 9.6 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. On this basis it is not considered that the proposal will result in any severe adverse impacts on highway safety or the road network when compared with what has already been accepted on the site. The application site is in a sustainable location in walking distance of Staveley Town Centre. The proposal therefore accords with CLP1; CLP2; CLP20 and CLP22 of the Local Plan.
- 9.7 Taking into account the permitted development 'fall back' position that under Schedule 2, Part 3, Class L of the General Permitted Development (England) Order 2015 (as amended) a dwellinghouse can be converted to a small HMO (of no more than 6 people) without requiring planning permission. It is therefore important to acknowledge that if the previously approved plans for a 4 bedroom dwelling were completed first then they could convert the dwelling to a house in multiple occupation, as proposed, as permitted development. This is a material consideration in this case and should be taken account of as a realistic fallback position.

9.8 The proposal meets national space and amenity standards for House in Multiple Occupation licensing requirements.

9.9 On the basis of the observations detailed above and taking into account the previously approved consent and the permitted development fall back position it is recommended that the application be granted conditional permission.

## **10.0 RECOMMENDATION**

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

1. The development hereby permitted shall be begun before the 7<sup>th</sup> August 2021

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

2. 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. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Application Form dated 09 Jan 2018,
- OS LOCATION PLAN dated 09 Jan 2018

### **Floor plans**

- PROPOSED SECOND FLOOR dated 10 Jul 2018  
(notwithstanding the details shown on the approved plans the previously approved 4 bedroom house shall be carried out in accordance with the amended floor plans for a 5 bedroom house in multiple occupation detailed below)
- PROPOSED FIRST FLOOR PLAN dated 06 Aug 2018  
(notwithstanding the details shown on the approved plans the previously approved 4 bedroom house shall be carried out in accordance with the amended floor plans for a 5 bedroom house in multiple occupation detailed below)
- PROPOSED GROUND FLOOR PLAN dated 06 Aug 2018  
(notwithstanding the details shown on the approved plans the previously approved 4 bedroom house shall be carried out in accordance with the amended floor plans for a 5 bedroom house in multiple occupation detailed below)

### **Amended Floor Plans for 5 bed house in multiple occupation**

- Drawing 'Variation from 4 bed house to 5 bed HMO', drawing number 3/110 Revision C (dated 26.11.2020)

**Amended elevations**

- Window Details, drawing number 3/102 Revision G (dated 12.10.2020)
- Window Details side elevation from Wateringbury Grove, drawing number 3/102/02 Revision B (dated 07.10.2020)
- Window Details front elevation from Lowgates, drawing number 3/102/01 Revision C (dated 07.10.2020)
- Window details rear elevation from rear car park, drawing number 3/102/03 Revision C (dated 07.10.2020)
- Window details side elevation from memorial park, drawing number 3/012/04 Revision C (dated 07.10.2020)
- Vintage collection sash windows

**Reason** - The condition is imposed in order to ensure that the development reflect the character of the existing building in accordance with policies CLP1, CLP20 and CLP21 of the Local Plan,

3. Consent is granted for a 5 bedroom 5 person House in multiple occupation

**Reason** – to clarify the occupancy levels and extent of the permission given the size of shared space.

4. The development shall be carried out in accordance with materials detailed in the approved 'Boundary Treatment Details, drawing number 3/101 (dated 17.08.2020)' and 'Car Park Boundary Wall Plan & Elevation as Proposed, drawing number 3/100 (dated 20.08.2020)' unless otherwise agreed in writing by the Local Planning Authority. Notwithstanding the details as shown on the submitted plans, the proposed replacement trees shall be implemented in accordance with details contained in the previously submitted Arboricultural Impact Assessment by Jon Coe reference JC/152/180723 and dated the 23<sup>rd</sup> July 2018. Notwithstanding the requirements of the Arboricultural Impact Assessment listed above, only those details as shown on the approved plan shall be implemented on site and thereafter retained for the life of the development.

**Reason** - The condition is imposed in order to ensure that the materials used for the construction of boundary treatments reflect

the existing building and character of the area in accordance with policies CLP20 and CLP21 of the Local Plan.

5. The hard and soft landscaping, bin storage and boundary treatments shall be carried out in full accordance with 'Boundary Treatment Details, drawing number 3/101 (dated 17.08.2020)' including the retention of the freestanding pub sign. Notwithstanding the details as shown on the submitted plan the proposed replacement trees shall be implemented in accordance with details contained in the previously submitted Arboricultural Impact Assessment by Jon Coe reference JC/152/180723 and dated the 23<sup>rd</sup> July 2018. Notwithstanding the requirements of the Arboricultural Impact Assessment listed above including an enlarged planting bed, only those details as shown on the approved plan shall be implemented on site and thereafter retained for the life of the development.

**Reason** - The condition is imposed in order to ensure that the landscaping, boundary treatment and bin storage area reflects the existing building and character of the area in accordance with policies CLP20 and CLP21 of the Local Plan.

6. 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.

7. 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 development hereby approved without the prior written agreement of the Local Planning Authority.

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

8. The rooflights shall be laid flush with the roof.

**Reason** - In the interests of the character and appearance of the development.

9. The development shall be carried out in accordance with the submitted 'Training and Development Policy March 2020' and supporting letter dated 14<sup>th</sup> September 2020 from Chris Griffin.

**Reason** - In order to provide employment opportunities as part of the development in accordance with CLP6.

10. The development shall be carried out in accordance with the submitted 'Traffic Management Plan Prizehouse Construction (received 26.06.2020)'.

**Reason** - In the interests of highway safety and parking and minimising disruption during the development in accordance with CLP22.

11. All parking spaces shall be formally demarcated on the ground in permanent marking materials and allocated to specific residential units. The approved scheme shall be implemented in full prior to occupation of any residential unit.

**Reason** - In the interests of highway safety and parking and to ensure adequate parking in accordance with accordance with CLP22.

12. The parking and turning layout shall be maintained free from any impediment to its designated use.

**Reason** - In the interests of highway safety and parking and in in accordance with accordance with CLP22

13. Prior to the occupation of the development the bin storage area/dwell area shall be provided in accordance with drawing 'Boundary Treatment Details, drawing number 3/101 (dated 17.08.2020) and thereafter retained from impediment to the designated use for the life of the development.

**Reason** - In the interests of highway safety and parking and amenity of residents in accordance with Local Plan policies CLP14, CLP20 and CLP22.

14. Two new trees shall be planted in the first available planting season after the removal of T1 & T2 Cherry of TPO 293 in the location and to the specifications outlined in the Arboricultural Impact Assessment by Jon Coe reference JC/152/180723 sections

4.5 'Replacement Planting', 6.3 'Tree Planting' and Appendix H. The new tree planting can be carried out either during the development once the new wall has been constructed or once the development has been completed and the trees removed. The development thereafter shall be implemented in strict accordance with the approved details. The tree protection measures as outlined in the Arboricultural Impact Assessment by Jon Coe reference JC/152/180723 sections 5.2 'Temporary Fencing' and Appendix H shall be implemented in full to protect the rooting environment of the two new replacement trees.

**Reason** - Required to satisfy the Local Planning Authority that the new trees rooting environment 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.