

**ITEM 2**

**Demolition of disused church/church hall building and erection of 9 three bedroom houses with associated access, parking and landscaping at St Patricks Church Hall, High Street, New Whittington for Wilcockson Construction Ltd**

Local Plan: CLP8 – Local Centre

Ward: Barrow Hill And New Whittington

Plot No: 2/101

Committee Date: 1<sup>st</sup> June 2021

**CONSULTATIONS**

Ward Members	No comments received
Local Highways Authority	Comments – see report
Neighbours and Site Notice	One representation has been received which raises concern about the lack of parking
Derbyshire Constabulary (Designing out Crime Officer)	Comments – see report
CBC Design Services	Comments – see report
Yorkshire Water	Comments – see report
The Coal Authority	Comments – see report
CBC Environmental Health	Comments – see report
CBC Urban Design Officer	Comments – see report
CBC CIL Officer	Comments – see report

**2.0 THE SITE**

2.1 The application site is a disused Church and hall with associated car park located within the Local Centre of New Whittington. The site fronts onto High Street with access formed from Redhouse Close off Stone Lane.



(Google image)

2.1

The existing building on site is of modern construction and the car park having a tarmacked finish. Adjacent to the site to the north is the housing of Redhouse Close, to the east of the swim school building, to the south is a variety of local facilities including the Wellington Hotel, to the west is a path known as Church Walk and the former Baptist Church.

(View from Church walk towards the site)



(View along the frontage looking east)



(Looking into the site from High Street)



(Looking towards the site looking West)



(Looking east from Redhouse Close)



(Looking west from Redhouse Close)



### **3.0 SITE HISTORY**

- 3.1 CHE/16/00123/NMA Non material amendment to CHE/15/00804/FUL - off street parking project - Unconditional Permission 23.03.2016
- 3.2 CHE/15/00804/FUL Off street parking project - Conditional Permission 19.01.2016 – this application was to provide the parking area to the end of Redhouse Close.



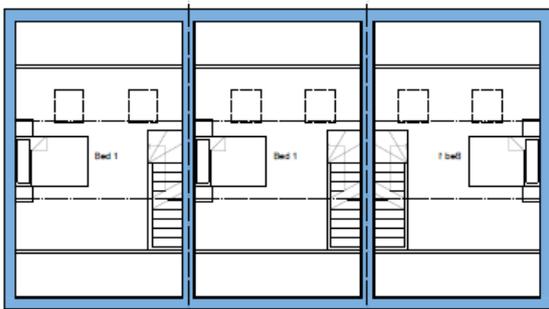
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### **4.0 THE PROPOSAL**

- 4.1 Planning permission is sought to demolish the church and hall and in its place erect 9 dwellings. The dwellings are to be 2 storeys in height with

accommodation within the roof space and will front High Street with pedestrian access from here only. Vehicle access is proposed to be from Redhouse Close where a parking courtyard will be formed for the residents of the new units. The dwellings are to be set out in three terraced rows of three units. Each dwelling is to have three bedrooms with one being within the roof space. The site is slightly elevated towards the rear and towards the east, as demonstrated on the plans below.





SECOND FLOOR PLAN  
SCALE 1:50 @ A1



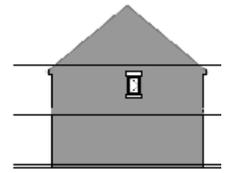
FIRST FLOOR PLAN  
SCALE 1:50 @ A1



GROUND FLOOR PLAN



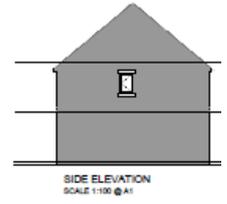
FRONT ELEVATION  
SCALE 1:100 @ A1



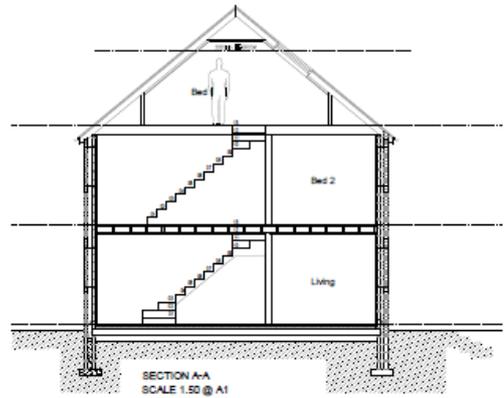
SIDE ELEVATION  
SCALE 1:100 @ A1



REAR ELEVATION  
SCALE 1:100 @ A1



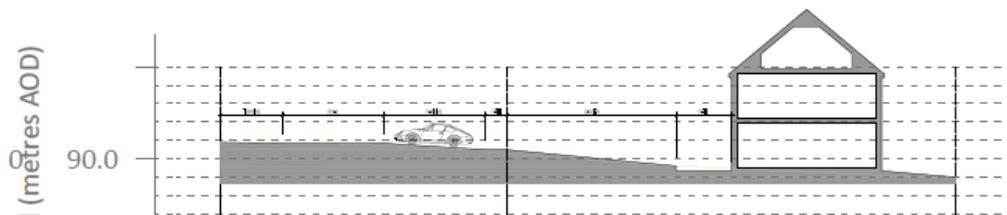
SIDE ELEVATION  
SCALE 1:100 @ A1



SECTION A-A  
SCALE 1:50 @ A1



Section 1'



90.0  
I (metres AOD)

## **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 (Strategic Policy)

CLP3 Flexibility in Delivery of Housing (Strategic Policy)

CLP4 Range of Housing

CLP8 Vitality and Viability of Centres (Strategic Policy)

CLP10 Social Infrastructure

CLP11 Infrastructure Delivery

CLP13 Managing the Water Cycle

CLP14 A Healthy Environment

CLP16 Biodiversity, Geodiversity and the Ecological Network

CLP20 Design

CLP22 Influencing the Demand for Travel

SS3 Chesterfield Waterside and the Potteries (Strategic Policy)

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

National Planning Policy Framework

Part 2. Achieving sustainable development

Part 4. Decision-making

Part 5. Delivering a sufficient supply of homes

Part 7. Ensuring the vitality of town centres

Part 8. Promoting healthy and safe communities

Part 9. Promoting sustainable transport

Part 11. Making effective use of land

Part 12. Achieving well-designed places

Part 14. Meeting the challenge of climate change, flooding and coastal change

Part 15. Conserving and enhancing the natural environment

Supplementary Planning Documents

Designing Out Crime

## Successful Places' Residential Design Guide

### 5.4 **Key Issues**

- Principle of development within the local centre and loss of Church and Hall;
- Design and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highways safety and parking provision;
- Biodiversity and impact on protected species
- Ground conditions
- Drainage
- Developer contributions
- Climate change and air quality

### 5.5 **Principle of Development**

5.5.1 Policies CLP1 and 2 of the Adopted Local Plan set out the strategic approach to the siting of sustainable development. CLP1 states that the overall approach to growth will be to concentrate new development within walking distance of a range of Key Services, focussing on areas of regeneration and that; the council will make provision for the delivery of a minimum Objectively Assessed Need (OAN) of 240 new dwellings per year.

5.5.2 This is reiterated in Policy CLP2 where it states that; Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:

- a) deliver the council's Spatial Strategy (policy CLP1), this is the first priority followed by developments that;
- b) are on previously developed land that is not of high environmental value;
- c) deliver wider regeneration and sustainability benefits to the area;
- d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;
- e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;
- f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;

5.5.3 Therefore, in terms of location the application site close to existing facilities, previously development land of low environmental value is considered to be a suitable location for residential development in accordance with policies CLP1 and the criteria in Policy CLP2.

Local Centre:

5.5.4 The application site is in a location where there is good access to local services and facilities and public transport. Therefore, the location of residential development here is in line with the strategic policies CLP1 and 2 of the Adopted Local Plan.

5.5.5 The application site is within a local centre as defined in the Adopted Local Plan and to which policy CLP8 relates where it states: The council will support the role of the town, district, local service centres and local centres in providing shops and local services in safe, accessible and sustainable locations. New development within centres shown on the Policies Map should make a positive contribution to the centre's viability and vitality, and be of an appropriate scale. The policy goes on to note in respect of housing development that; Residential uses (C3) will be permitted at first floor level and above (with the exception of suitable provision for access) and on appropriate redevelopment sites where it would not undermine the vitality of the centre. The Council will support the temporary occupation of empty buildings and cleared sites by creative industries and cultural and community organisations where they contribute to regeneration and enhance the character of the area. Proposals for comprehensive redevelopment of a centre or part of a centre will be considered where the proposals can demonstrate the community benefits of redevelopment and justify any loss of retail facilities. The provision of new local centres may be considered where a need arises.

5.5.6 Therefore the Local Plan supports development and redevelopment in local centres where this contributes to the wider vitality and viability of the centre. In this location where there are already vacant premises it is considered that the redevelopment of this vacant site is appropriate and will not result in harm to the local centre adding to its vitality and viability through the presence of occupied properties and resident spend.

Loss of local facility:

5.5.7 Policy CLP10 relates to social infrastructure and states that: Development will not be acceptable where it includes the change of use, amalgamation of uses or redevelopment of existing local community or recreational facilities, if it would result in the loss of a facility which is

required to meet a local need or contributes to the network of facilities throughout the borough unless:

- a) there is an equivalent facility available in the locality or an equally accessible one is made available prior to the commencement of redevelopment to serve the same need; and
- b) it can be demonstrated through a viability assessment that the current use is economically unviable and all reasonable efforts have been made to let or sell the unit for the current use over a continuous 12 month period that includes advertisement for let or sale at a realistic price.

#### 5.5.8

The submission details that; *“The site’s previous use as a place of worship, church hall and an ancillary car park represented a community facility, although it had evidently become unsustainable and it closed approximately 2 years before the site was sold. Falling congregation numbers and a need to rationalise the property portfolio of the Hallam Diocese of Sheffield was the primary reason for moth-balling the site. The site’s maintenance requirements and up-keep costs exceeded the income from its ongoing, low level community use.*

*The site was initially marketed in August 2019 for £275,000 without interest and was subsequently sold at auction in October 2019 for £250,000. This would seem to be a realistic price for a building of circa 370sqm floorspace in a local centre and with a dedicated car parking area. Under policy CLP10, adopted in July 2020, applications to redevelop community facilities are required to demonstrate adequate alternative local provision and a viability assessment and evidence of 12 months marketing. At the time the site was acquired and when pre-application advice was received, the policy framework was significantly different with either alternative provision or lack of viability required to be demonstrated. As there is significant alternative provision of this facility within 500m of the site, the land was purchased on the assumption that the policy criteria was met.*

*As the site is located within the local centre, there are multiple community facilities in the vicinity of the site. The church hall facilities are, however, more likely to have been a valued community facility the closure of which may have generated unmet demand. However, the site is within 400m of another Church Hall where rooms can be hired and within 150m of a member’s club which also offers room hire (membership fees are minimal). The closure of the St Patrick’s site is likely to have increased the viability of these other community facilities. Given that the site’s use became unsustainable over 2 years ago, there is very little chance that the use will have become more viable in the intervening time. This kind of use is likely to be exceptionally unviable at the moment and also moving into the short term with restrictions on*

*social gatherings and congregation. Rather than retain the site in its currently disused state for an unknown period of time, it would be of greater benefit to the community to bring it forward for a sustainably located housing development that contributes to housing supply in the Borough and also provides revenue via CIL for the provision and upkeep of social infrastructure in a more general sense.*

*In summary, there is significant alternative provision for room hire facilities within 0.5km of the site. The building's reuse as a church is extremely unlikely. The site was bought at auction without any competition despite the site being on the market for some time before the date of the auction and the price being reduced by 10%. The policy framework for the reuse of community facilities has changed since the site was purchased and so the applicant cannot demonstrate a full 12 months of marketing and does not have access to the accounts of the Hallam Diocese in order to provide a viability assessment. However, given the provision elsewhere, the lack of interest in the site up to the point at which it was sold, and the unlikelihood of its reuse for similar purposes in the future, the application can be considered compliant with the general thrust of policy CLP10 and with NPPF paragraph 92(d)."*

5.5.9 It is recognised that pre application advice and the purchase of the site was at a point prior to the adoption of the local plan. Nevertheless, the loss of the community facility has to be carefully considered. In this case, considering; the Church's decision to close due to being reportedly unviable, what appears to be a reasonable pricing and marketing exercise prior to the auction sale, the presence of other facilities in the area, along with the redevelopment benefits of the site; it is considered that the loss of this facility is acceptable and broadly in line with the requirements of policy CLP10.

5.5.10 Considering all of the above policy matters it is concluded that the site is suitable for redevelopment for residential use in line with policy requirements. The detailed impacts of this development require further consideration as assessed below.

## **5.6 Design and Appearance of the Proposal**

5.6.1 Policy CLP20 requires that; All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context. The Council will support outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an

area, provided that they complement the character and appearance of their surroundings.

#### 5.6.2

In considering the design and appearance of the proposal the Council's Urban Design officer has commented on the proposal:

*The medium to density of development is suited to the scale, form and density of the locale. The dwellings relate well to the primary streetscene and provide a strong sense of enclosure and definition to the edge of the street.*

*Recommend the repositioning Plot 01 further off the boundary to accommodate the Designing Out Crime comments.*

*Successful Places (2013) advises that parking courts should be designed as courtyards rather than car parks and treated as an extension of the residential environment. As such, the appearance the parking court could be improved using alternative surface treatments and the introduction of soft boundary planting.*

*Rear boundaries to the parking court should be high quality robust and visually appealing. This should comprise a brick wall (1.5m) with trellis panels (300mm) above to facilitate passive surveillance between the proposed dwellings and the keepers vehicles.*

*Recommend slight amendments to the parking layout to make it more user friendly.*

*The scale of the development is appropriate to the context of the site and its surroundings.*

*Detailed landscaping details will be required to demonstrate an attractively landscaped environment can be achieved and also contribute to biodiversity net gain requirements.*

*The front boundary walls could interfere with the root areas of the trees. Details of boundary treatments should be provided and be required to be retained to ensure continuity of appearance of the development.*

*The addition of modest details such as a brick band detail etc. would enhance the relatively plain appearance of the houses.*

*Access from the back of the site via Redhouse Close offers a safe location to enter the site whilst avoiding conflict with the High Street frontage.*

#### 5.6.3

The Designing Out Crime officer has commented on the proposal: *The proposed development will reduce the open aspect of Church walk to its eastern side, effectively enclosing the pathway. This is not ideal for public safety or in reducing nuisance. The problem is compounded by a lack of outlook from the Chapel Building. An opening up and treatment of the side gable of plot 1 would bring some passive supervision to the initial section of the path, but I am also mindful of the potential for*

*damage and nuisance in this event, given the current situation. A wider set back, rail treatment similar to existing and a densely planted buffer would help, but may jeopardise the quantum of the proposal. Other boundaries are mostly clear and appropriate. The re-use (and repositioning) of existing hoop topped rails for the car park boundary is sensible. Gating and fencing to secure gardens level with front elevations is not clearly marked.*

*As all parking is at the back of the site, and looking at current levels slightly higher than site ground levels, I would recommend that the upper 300mm of rear garden facing is an engineered trellis to assist with sight lines between home and car. The gates which provide access from parking area to gardens will need to be key lockable from both sides to enable a combination of security and convenient movement.*

5.6.4 Through the application process the applicant's agent has amended the submitted details to address many of the concerns raised. The proposal now includes; the three blocks of dwellings with plot 1 moved slightly away from the boundary of the site with an additional side window to plot 1 to ensure some natural surveillance of the Church Walk, parking to the west of the site is moved away from the boundary to make it more usable, provision of a bin store area to be block paved, re-use of the metal railing to the rear boundary of the parking area, lower fencing with trellis to the rear garden boundaries and part of the western boundary which will to the frontage be a brick wall to 900mm height as a continuation of the wall to the site frontage.

5.6.5 These changes to the scheme have addressed the concerns raised and subject to conditions regarding materials along with hard and soft landscaping details the proposal is considered to be of an appropriate design and appearance in this context.

## **5.7 Impact on Neighbouring Residential Amenity**

5.7.1 Policy CLP14 of the Local Plan sets out that; All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts.

5.7.2 The Council's Environmental Health team has been consulted on the application and has commented that: *Recommend conditions - A condition regarding the hours of operation on site, a condition regarding lighting, the provision of electric vehicle charging in the interests of air*

*quality, a land contamination investigation and mitigation condition.* The recommendations of the Councils Environmental Health Team have been incorporated into the recommendation below.

5.7.3 In terms of more generalised residential amenity impacts, these are considered to be minimal in this case due to the position of the site and the distance to neighbouring properties. Therefore, subject to the conditions noted above, and in the recommendation, it is considered that the proposal is acceptable in terms of the quality of accommodation and amenity space for future residents and in terms of any amenity impacts to existing residents. The proposal therefore meets the requirements of policy CLP14 of the Adopted Local Plan.

## **5.8 Highways Safety and Parking Provision**

5.8.1 In terms of this application there has been local comment raised regarding the potential loss of parking. The main aim of the Local Plan is to encourage sustainable travel through walking and cycling. Policy CLP22 of the Local Plan encourages more sustainable travel. The policy goes on to note that; Development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is in line with paragraphs 108 to 110 of the NPPF.

5.8.2 In this case the Local Highway Authority has raised concerns regarding the proposal making the following comments: *It would appear that the proposal encroaches into the highway and therefore requires revision. Confirm the status of existing parking. Would not want to see the loss of formal off-street parking. The footpath to the frontage is narrower than current recommendations, particularly in the vicinity of the bus stop. This needs to be reconsidered for pedestrian safety. Consultation is needed regarding refuse collection. Provision of a bin dwell area of appropriate dimensions is required.*

5.8.3 Further comments to amended plans were then received as follows: *It is noted that the red line boundary still includes part of the publicly maintainable highway. From the revised plan, it is difficult to tell whether any of the works fall within the publicly maintainable highway (in particular the turning facility and the bin store) and this would need to be clarified prior to the Highway Authority making formal recommendations on this application. For clarification, the Highway Authority would not wish to see the loss of existing formal off-street parking. Street view images also suggest that the footway across the*

High Street frontage of the site is significantly narrower than current recommendations, particularly in the vicinity of a bus stop. Whilst the existing situation is of open nature with a vehicle access to a car park and single pedestrian access, the proposals demonstrate a walled frontage with a number of pedestrian accesses serving individual proposed dwellings. Therefore, in the interests of pedestrian safety, it's recommended that the footway is widened to 2.0 metres with the additional width dedicated as publicly maintainable highway. It would seem from the information available that the width of the parking spaces is slightly below 2.4m. In addition, the manoeuvring width to the rear of the parking spaces is slightly below 6.0m although may be acceptable.

5.8.3 The applicant and agent have expressed concern regarding the issue of the land ownership, the applicant is adamant his land is not within the area of adopted highway and is seeking legal advice on this. Following on from the initial comments amended plans were received to vary the red edge to what they considered the Highway Authority were referring to and considered this had overcome the issue. The further response from the Highway Authority were therefore concerning to the applicant given the change in the application to address the earlier comments.

5.8.4 The plans below show what the highway authority consider to be their land as highlighted in green:



The discrepancy over the control of land appears to relate to the area at the rear of the site where limited works in terms of the development are proposed. The area of land in question is roughly the same width as the footpath to the frontage of the swim school on Redhouse Close and is not large enough to accommodate a vehicle. Ultimately this is a private matter of land ownership and in the worse case scenario if this land is within highway control in terms of this development it would impact on very a small portion at the edge of the turning area and the rear most part of the bin store as demonstrated on the plans above. It is considered that even in this worse case scenario the extent of turning area and bin store area remaining within the applicants-controlled land will be sufficient to serve the development.

5.8.5 Concern has also been raised by the Highway Authority that the parking spaces are insufficient in size and that the manoeuvring space to the rear of these should be at least 6m. The parking spaces as set out on the revised site plan are 2.4m by 5.4m and the area for turning to the rear of the spaces is approximately 5.4m expanding to 8.2m at the turning head and access. The 6 C's design guidance which is referred to in our residential SPD and the SPD refer to the need for parking spaces to be 2.4m by 4.8m in size. The parking spaces in this case are in excess of that size and therefore are considered to be acceptable. the space to the rear of the parking space is shorter than 6m but combined with the turning head and access it is considered feasible to turn vehicles in this area. It is therefore considered that the parking and turning area within the

5.8.6 The Highway Authority also raised concern that the proposed development should not result in a loss of parking in the area, this has also been raised by a local resident. The land that is within the application site, of which a small portion is the disputed land, has been used for parking by the public for some time; by local residents or those using the nearby facilities such as the swim school. However, this parking is on private land and as the use for parking was merely within landowner's gift this was not parking that was secured in any way. The ability to park here has now been withdrawn by the fencing off of the site, over which this Authority has no control. Therefore, the loss of parking in this case cannot be considered as a detriment to the development which is within a sustainable location where there is access to public transport and on street parking is available. Parking for the proposed development at two spaces for each dwelling is considered to be acceptable.

- 5.8.7 The Highway Authority have also noted that the pavement to the site frontage on High Street is narrow and should be increased to 2m in width, with this area of the site then being passed onto the Highway Authority's control. This concern of the Highway Authority has been passed on to the applicant and it is considered that it would be beneficial to provide the wider pavement to the site frontage. However, the applicant's agent has noted that; *Although we recognise that the footpath along High Street is less than 2m wide, the amount of land that would have to be dedicated to the Council to remedy this would have significant implications for the value of the site. As such the applicant is unwilling to dedicate this land to the highway's authority or surface it as footway at his own expense. The swimming pool's boundary wall presents a physical barrier at the eastern end of the site in any event, meaning that the widened footway would ultimately terminate at a section of brick wall.*
- 5.8.8 In view of this it is necessary to consider whether the lack of improvement to the footway is a detriment to the scheme sufficient to warrant refusal of the application. The applicant is not proposing any vehicle access at this point of highway street and therefore the safety implications for those using the pavement remain largely the same. It is noted that there was a grass verge but that this is now fenced off and could be permanently fenced off without the need for any permission. Therefore, whilst it would be beneficial to have a wider pavement area at the front of the site and the lack of this is a negative element of the scheme it is not considered that the lack of a wider pavement here is of such detriment that planning permission should be refused.
- 5.8.9 Whilst a number of matters have therefore been raised by the Highway Authority it is not considered that these result in a scheme that is unacceptable. Therefore, in terms of highway safety the proposal is considered, on balance, to be acceptable in accordance with policy CLP22 of the Local Plan and Part 9 of the NPPF.

## **5.9 Biodiversity and Impact on Protected Species**

- 5.9.1 Policy CLP16 of the Adopted Local Plan requires that development will;
- protect, enhance and contribute to the management of the borough's ecological network of habitats, protected and priority species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a local wildlife site or priority habitat; and

- avoid or minimise adverse impacts on biodiversity and geodiversity; and
- provide a net measurable gain in biodiversity.

5.9.2 The application includes the demolition of the existing building part of which is flat roofed, the site is largely hard surfaced with a small area of low value amenity grassland. An ecological survey has not been submitted with the application, however the submission includes the following information: *Given the existing building dates from the late 1980s and is largely flat roofed, the potential for there to be bats or birds present within the roof of the building is negligible, particularly given its isolation from any significant areas of green space or foraging routes. The remainder of the site is largely laid with blacktop with the exception of some planting around the site's perimeter. The site's biodiversity is currently very low. The proposals proposed the introduction of planted front and rear gardens which will offer some enhancement in terms of biodiversity, compliant with Local Plan policy CLP16.*

5.9.3 The site is within a very built up area with limited green routes. It is therefore considered that these comments are reasonable and the roof of the building is in good condition. To ensure there are no adverse impacts in terms of ecology, a footnote will be added to any permission reminding the developer of the need to comply with the Wildlife and Countryside Act 1981 in respect of protected species. The application does not include a scheme for biodiversity enhancement which is necessary to comply with the requirements of Policy CLP16. It is therefore considered reasonable to impose a pre commencement condition to secure a scheme of biodiversity net gain. Subject to such a condition the application is considered to be acceptable in terms of policy CLP16.

## 5.10 **Ground conditions**

5.10.1 The application site is within the High Risk Area in respect of former coal mining activity. Policy CLP14 of the Adopted Local plan requires that; Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:

- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and
- b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and

c) a strategy for any necessary mitigation and/or remediation and final validation.

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.

5.10.2 The Coal Authority have commented on the case: *The site is within the development High Risk Area. The submitted report correctly identifies that the application site may have been subject to past coal mining activity, that the site is likely to have been subject to probable shallow coal workings and probable shallow coal workings associated with a thick coal seam outcrop. On account of the above, and because the report confirms a potential risk posed by shallow coalmine workings, appropriate recommendations are included for intrusive site investigation works to confirm ground conditions to identify any necessary remedial measures. Conditions are recommended.*

5.10.3 The Council's Environmental Health Team have commented: *The application is supported with a 'Preliminary Geotechnical, geo-environmental and coal mining risk assessment' dated September 2020. The proposed location is within an area of Chesterfield that could be affected by land contamination. Should planning permission be granted for this proposal, I would strongly recommend a condition be imposed for site investigation and remediation.*

5.10.4 Subject to the conditions being imposed to ensure appropriate site investigation and remediation where necessary the proposal is considered to be acceptable in accordance with policy CLP14 in terms of ground conditions.

## **5.11 Drainage and flooding**

5.11.1 Policy CLP13 of the Local Plan advises that; The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance. In addition, the policy notes that; Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.

- 5.11.2 The Council's Design Services team have commented: *We have no objections in principle to the outline proposed in the applicants sustainable drainage assessment and we support the use of sustainable drainage features. We would wish to see full details of the drainage design prior to approval, which may be added as a condition of any approval.*
- 5.11.3 Yorkshire water have commented: *In terms of waste water – a condition should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.*
- 5.11.4 In the application submission the applicants agent has noted that; Discharging via infiltration requires 90m<sup>3</sup> of attenuation to be provided to ensure there is no flooding as a result of the development in all storm events up to and including the 1 in 100 year storm (6-hour duration) plus a 40% allowance for climate change. This volume is subject to the results of infiltration testing and would ensure runoff is not increased above the greenfield scenario. Discharging off-site requires 80m<sup>3</sup> of attenuation to be provided to ensure there is no flooding within the development in all storm events up to and including the 1 in 100-year storm (6-hour duration) plus a 40% allowance for climate change. The Geosmart report recommends the use of green roofs on sheds and bin stores, the use of water butts on each house, permeable paving, and the installation of a water tank with 30m<sup>3</sup> capacity beneath the parking area to achieve the 90m<sup>3</sup> of attenuation required.
- 5.11.5 It is acknowledged that the site is largely developed with a hard-surfaced car park. On the basis of the above information which confirm the aim to achieve greenfield runoff and subject to the conditions recommended by consultees the proposal is considered acceptable in terms of drainage matters in line with policy CLP13 of the Local Plan.

## 5.12 **Developer Contributions**

- 5.12.1 The policies of the Local Plan and NPPF require provision for development contributions and affordable housing for schemes of 10 units or more, in this case the modest development of 9 units is not therefore required to provide contributions or affordable housing.
- 5.12.2 The development will be CIL liable to which the applicant's agent has noted; The proposed development has a Gross Internal Area of 792sqm. It is located in a medium charging zone of £50/sqm. The total

CIL liability on this site is therefore £39,600. The Council's CIL Officer has considered the submission and has concluded that based on the floorspace set out on the form, and applying the 2021 index, the CIL calculation comes out at £45,787 (792 x 50 x 333 / 288).

	A		B	C	D	E
<b>Proposed floor space (GIA in Sq. m)</b>	<b>Less Existing (Demolition or change of use) (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>
	0	792	£50.00	333	288	£45,787.50

### 5.13 Climate change and air quality

5.13.1 Policy CLP14 of the Adopted Local Plan requires in part that; The quality of the environment will be recognised at all levels of the planning and development process with the aim of protecting and enhancing environmental quality. All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account ... air quality and other environmental impacts.

5.13.2 Whilst there is no air quality management zone in New Whittington it is recognised that new development will introduce potential air quality impacts overall. In this case this is off set to some degree by the former use and development of the site. In order to minimise the potential impacts on air quality overall it is necessary to ensure that new dwellings have electric vehicle charging to reduce harmful emissions which is to be secured via condition. Through the construction process dust and noise may result which can also be controlled via a condition. Subject to these measures, as recommended by the Council's Environmental Health team, it is considered the development is generally acceptable in terms of air quality impacts.

5.13.3 Whilst there are no specific policy considerations for tackling climate change the Adopted Local Plan overall seeks to secure this through the provision of sustainable development with an emphasis on walking and cycling and easy access to services and facilities. As established earlier in this report the site is in a suitably sustainable location.

## 6.0 REPRESENTATIONS

6.1 One representation has been received which raised the issue of the potential for loss of local parking which has been addressed in section 5.8 of the report above.

## **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 application site is in a sustainable location where new residential development is considered to be appropriate and will not adversely impact on the vitality and viability of the local centre. The loss of the church and hall, which has already ceased use and been marketed at a reasonable level, is considered to be acceptable in this case. Whilst concern has been raised regarding the loss of parking this was taking place on private land through the gift of the land owner and the ability to park on part of the site has been removed, therefore the loss of parking is not a matter that can be controlled through this application.
- 9.2      It is considered that subject to a range of conditions being imposed the proposal is acceptable in line with the policies of the local plan as set out above.

## **10.0**      **RECOMMENDATION**

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

### **Conditions**

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

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

Site Plan 2056 – 01E received 15.03.2021

Site sections 2056 – 02C received 15.03.2021

Proposed plan 2056 – 03C received 15.03.2021  
Proposed plan 2056 - 04A received 15.03.2021  
Site sections 2056 – 05A received 15.03.2021  
Location plan 2056 – 500 B received 15.03.2021

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

3. Within 2 months of works commencing on site a scheme for biodiversity and ecological enhancement measures including a scheme for implementation and maintenance shall be submitted to the local planning authority for consideration to demonstrate a net gain in biodiversity. The ecological enhancement measures agreed in writing shall be implemented on site in accordance with the submitted programme of implementation. The ecological enhancement measures shall thereafter be implemented, retained and maintained in perpetuity.

**Reason:** *In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 170 of the National Planning Policy Framework*

4. Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

**Reason** - To ensure a satisfactory external appearance of the development in accordance with policy CLP20 of the Adopted Local Plan.

5. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

**Reason:** To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

6. A residential charging point shall be provided for each new dwelling with an IP65 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 vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

**Reason** - In the interests of reducing emissions in line with Policy CLP22 of the Adopted Local Plan 2020.

7. To minimise noise impacts on the existing residential dwellings, 'construction work' and 'demolition work' shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work and demolition work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials used during both the construction and demolition phases.

**Reason** – To protect residential amenity through construction works in accordance with policy CLP14 of the Adopted Local Plan.

8. All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties. The applicant shall submit details of all the lights they intend to use as part of this development and shall seek approval prior to the installation of lighting on site.

**Reason** – To protect residential amenity through construction works in accordance with policy CLP14 of the Adopted Local Plan.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no fences, gates, walls or other means of enclosure shall be erected within the curtilage of any dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

**Reason** - To safeguard natural surveillance of the footpath and parking area in accordance with policy CLP14 of the Adopted Local Plan.

10. Measures to minimise the spread of airborne dust from the site shall be implemented throughout the construction period.

**Reason** - In the interests of residential amenity in accordance with policy CLP14 of the Adopted Local Plan.

11. a) Prior to work commencing on site, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;
- b) Prior to works commencing on site, detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
- c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
- d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;
- e) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';
- f) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason** - This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with Policy CLP14 of the Adopted Local Plan.

12. No development shall commence (excluding demolition) until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coalmine workings, and;
- b) any remediation works and/or mitigation measures to address land instability arising from shallow workings, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with the agreed details and authoritative UK guidance.

**Reason** – To ensure appropriate safety of the site from former coal mining activity in accordance with Policy CLP14 of the Adopted Local plan.

13. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by shallow coalmine workings.

**Reason** – To ensure appropriate safety of the site from former coal mining activity in accordance with Policy CLP14 of the Adopted Local plan.

12. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
  - b) evidence of existing positive drainage to public sewer and the current points of connection; and
  - c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30 % reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

(To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage)

**Reason** – To ensure appropriate drainage of the site in accordance with policy CLP14 of the Adopted Local Plan.

13. Prior to the commencement of development full details of the soil drainage design, including infiltration testing and sizing calculations in accordance with BRE Digest 365, shall be submitted to and agreed in writing by the Local Planning Authority. Any drainage design should ensure no flooding occurs to properties or leaves site during a 1 in 100 year rainfall event including a 40% increase for climate change. Any discharge to a sewer connection should show a significant reduction upon existing surface water discharge rates. Works shall be completed in accordance with the agreed details.

**Reason** – to ensure appropriate drainage of the site in accordance with policy CLP14 of the Adopted Local Plan.

14. Alongside the biodiversity enhancement details a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the commencement of development, the details of which shall include :-
- all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
  - any grass seed mixes and sowing rates;
  - elevational details of the walling to the site frontage and fencing to the rear of the gardens
  - vehicle and pedestrian access and circulation areas;
  - hard surfacing materials

**Reason** - To ensure a satisfactory landscaped scheme for the development in accordance with Policies CLP20 and CLP16 of the Adopted Local Plan.

15. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or

become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

**Reason** - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with Policies CLP20 and CLP16 of the Adopted Local Plan.

16. The proposed means of vehicular and pedestrian access hereby approved shall be laid out, hard surfaced, sealed and drained prior to occupation of the first dwelling. The parking areas provided shall be maintained thereafter free from any impediment to its designated use.

**Reason** - To ensure that a suitable form of access is made available to serve the development in accordance with Policies CLP20 and 22 of the Adopted Local Plan.

17. Staff accommodation, storage of plant and materials, parking and manoeuvring of site operatives and visitor vehicles, together with the loading/unloading and manoeuvring of goods vehicles, shall take place entirely within the site accessed from Redhouse Close only and shall not be within the public highway.

**Reason** - In the interests of highway safety in accordance with Policies CLP20 and 22 of the Adopted Local Plan.

### **Informative Notes**

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. The buildings have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No

building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

3. When you carry out any work on site including demolition, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
4. In line with condition 12 requested by Yorkshire Water: Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.  
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[www.yorkshirewater.com](http://www.yorkshirewater.com)

As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event.

The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of Yorkshire Water and the Local Planning Authority by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.