

Case Officer: Chris Wright

File No: CHE/21/00303/FUL

**Item 1**

**PROPOSAL: DEMOLITION OF EXISTING RESIDENTIAL ANNEX AND CONSTRUCTION OF NEW 4-BEDROOM HOUSE.**

**LOCATION: THE OAKS, 534 CHATSWORTH ROAD, CHESTERFIELD for Mr C HEPWORTH**

1.0 **CONSULTATIONS**

Ward Members:	No comments received.
Local Highway Authority:	Revisions requested
Chesterfield Design Services:	The site should be developed using separate drainage systems.
Yorkshire Water Services:	No comments provided
Urban Design Officer:	No comments provided.
Derbyshire Wildlife Trust:	Comments in regards bats and biodiversity, supportive of bat survey provided.
Environmental Health:	No objection subject to conditions related working hours, lighting, air quality and dust suppression
Tree Officer:	No objection, subject to retention of a TPO tree on site and conditions.
Coal Authority:	Material Consideration, request the inclusion of conditions.
Conservation:	No objections

Forward Planning: Compliant with policy, subject to condition.

Representations: 1 comment received from a local resident. No objection to the principle but raise the issues of highway safety and pedestrian safety from the intensification of the use of Rye Flatt Lane, including poor manoeuvring and visibility, as well as the negative impact of the loss of a section of dry stone wall to the side.

## 2.0 **THE SITE**

2.1 The application site is currently part of the rear garden of a two storey red brick detached dwelling sited to the south of Chatsworth Road. It also has Rye Flatt Lane to the west. It is in a residential area and is surrounded by housing on all sides. It is within the Chatsworth Road Conservation Area.

2.2 The site has several protected trees on site and within the local vicinity. The works that have been completed to the existing dwelling include a two storey rear extension and a single storey side extension. In the red line area a single storey garage and store to the rear of the site was previously built, there were further works to these buildings that include converting it into a “granny annex”. A new access was also created to the rear of the western side of the site to allow access to these buildings.

2.3 The character of the area includes the dwellings on Chatsworth Road and Rye Flatt Lane, with the Chatsworth Road properties a mix of semi-detached and detached dwellings, hipped and pitched roofs which a similar design and character. The dwellings on Rye Flatt Lane are all detached units, with 3 two storey larger dwellings and 1 detached bungalow, including detached garages. They have been built on land previously utilised as garden land.

2.4 The existing site has more than 300sqm of private garden space, parking to the rear for over 4 vehicles and accesses to Chatsworth Road and to the rear/side of the site.

### 3.0 **RELEVANT SITE HISTORY**

3.1 CHE/0388/0222 - Permission for garage and store – Conditional Permission – 25/05/88

3.2 CHE/1001/0580 - Extensions to existing dwelling, conversion of detached building to provide residential accommodation and garage and creation of vehicular access – Conditional Permission – 20/12/01

3.3 CHE/21/00151/TPO - Oak T1: Crown lift to 5.2m. Removal of 1 limb and 1 secondary branch, 2m back from both houses. Crown clean remove deadwood. T2 Sycamore: crown lift to 5.2 m, clear telephone wires and remove all ivy and deadwood. T3 Sycamore: crown lift to 5.2m – Conditional Permission – 11/03/21

### 4.0 **THE PROPOSAL**

4.1 It is proposed to demolish the existing buildings on site and to build a detached two storey dwelling including an integral single garage. It would be a 5 bedroom dwelling and would have a garden and patio area to the rear. It would have a hipped roof and would be finished in red brick and natural slate. It would have obscure glazing on the upper floor side and rear bathroom windows.

4.2 The garden size would be over 100 sqm and it would have parking spaces on site for at least 4 cars.

4.3 The development would lead to the loss of the main parking facilities for the main dwelling, and it is proposed to enlarge the existing front vehicular access from Chatsworth Road and to create an opening to the side of Rye Flatt Lane, with separate exits for in and out.

4.4 It is proposed to plant 2 new trees (Scots Pine and Silver Birch) and to position several bird and bat boxes on site, as well as creating small gaps in the fence, planting shrubs and building a log pile for wildlife.

## 5.0 **CONSIDERATION**

5.1 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)
CLP13	Managing the Water Cycle
CLP14	A Healthy Environment
CLP16	Biodiversity, Geodiversity and the Ecological Network
CLP20	Design
CLP21	Historic Environment
CLP22	Influencing the Demand for Travel

## 5.3 **National Planning Policy Framework (2019)**

Part 2.	Achieving sustainable development
Part 4.	Decision-making
Part 5.	Delivering a sufficient supply of homes
Part 8.	Promoting healthy and safe communities
Part 9.	Promoting sustainable transport
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

## 5.4 **Supplementary Planning Documents**

Successful Places' Residential Design Guide (2013)

## 5.5 **Principle of Development**

5.5.1 The Council's Strategic Policy Team have commented that the proposed new dwelling is within the built-up area, as shown on the

policies map, and within walking distance of a good range of key facilities (including primary and secondary education provision). The principle of a new dwelling in this location therefore accords with policies CLP1 and CLP2 and maximises opportunities for walking and cycling through its location in accordance with CLP22.

- 5.5.2 Policy CLP13 of the Local Plan also requires new dwellings to be built to the optional higher water efficiency standard and which should be required by condition and under policy CLP22, new development is required to include at least one Electric Vehicle Charging point, secured by condition.
- 5.5.3 The development will also be liable for CIL at the 'High' zone rate – currently £92.50 per square metre gross internal floorspace. Exemptions such as for custom and self-build are available but must be applied for prior to commencement on site and a note to this effect should be added to any planning permission.
- 5.5.4 The proposed development site is situated within walking distance from key services and is located on land that is currently utilised as residential curtilage. The site is located within a built-up area where new housing development would be considered appropriate in principle. As such, this proposed development site is considered to be sufficiently sustainable for a development of this nature and adheres to the policies CS1 and CS2 and is acceptable in principle. Other aspects of the scheme are considered below.

## 5.6 **Residential Impact**

- 5.6.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 5.6.2 Overlooking – The dwelling has no clear glazed windows to the sides. To the rear of the proposed property are the rear gardens of no's 532 and 532a Chatsworth Road and the wooded plot of land to the rear of their gardens. The new dwelling has bathrooms and obscure glazed windows to the northern half and bedroom windows to the southern half of the rear elevation. To the front of the dwelling there are several mature trees as well as a dwelling sited across the road, with an 18m separation distance between

the frontages and primary windows. There are 3 two storey modern dwellings previously built on rear garden in-fill plots, two of these dwellings are sited 18-19m apart from one another and this proposal replicates a similar relationship to these two dwellings and on this basis the proposal is considered to be acceptable.

- 5.6.3 Overshadowing and loss of daylight/sunlight – The scheme would be sited in the rear garden of an existing dwelling, with a 12m separation between the two dwellings. The main impact of the dwelling would be into the residential garden of no.532a Chatsworth Road. They have a 17m long garden which includes a patio area close to the rear of the house. Due to the existing large mature trees in the area and granny annex building the proposal is not considered to lead to a significant impact to their amenity. No objection has been received from these residents.
- 5.6.4 Private amenity space – the scheme would includes 100 sqm of amenity space to the rear of the dwelling. The Council’s Design SPD (2013) has guidance that a 4+ bedroom dwelling should have at least 90 sqm of space, and which ensures that the proposal is acceptable in this regard. It is also inline with the some of the other in-fill dwellings within the local area. The existing dwelling will be left with over 300sqm of private amenity space, which is acceptable for a dwelling of this size.
- 5.6.5 On the basis of the above, the erection of the proposed dwelling would be acceptable with the requirements of Policies CLP14 and CLP20 of the Local Plan and the advice contained within the 2021 NPPF (paragraph 127) which states that planning decisions should ensure that developments have a “high standard of amenity for all existing and future users” and chapter 3.11 (Amenity) of the Council’s SPD ‘Successful Places’.

## 5.7 **Design and Visual Impact**

- 5.7.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

5.7.2 The dwelling would be a hipped roofed two storey detached house. It would have red brick, with sandstone dressings around the windows. It would also have a natural slate roof, two flat roofed front dormers and a flat roofed front canopy in front of the entrance door. The surrounding area is characterised by red brick dwellings and small smooth darker tiles. In general appearance terms the dwelling is considered to be sympathetically designed in relation to the existing dwelling on site, the older houses on Chatsworth Road and the most recent houses built on Rye Flatt Lane. It does not match the surrounding dwellings, but offers some level of interest into the streetscene. In relation to scale and massing the dwelling is a wide house which includes an integral garage at ground floor and it will take up the majority of the width of the plot. This is similar in style to several of the neighbouring dwellings on Rye Flatt Lane and Oakfield Avenue.

5.7.3 Accordingly the proposed scheme would be an acceptable addition to the street scene, and acceptable to visual amenity, which is acceptable in relation to the Council's Supplementary Planning Document 'Successful Places' (section 3.16 Building Design), Policy CLP20 of the Chesterfield Borough Local Plan and paragraph 130 of the revised National Planning Policy Framework.

## 5.8 **Highways Issues**

5.8.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety.

5.8.2 The proposal includes space for 4 vehicles to park on site include 1 garage space, 1 to the side of the garage and 2 in front of the dwelling, as well as some additional space on site to manoeuvre to leave site in a forwards gear. The garage is 3.2m wide and 6.2m long. It is proposed to alter the existing access to this part of the site to widen it slightly. It is also proposed to create a new access onto Rye Flatt Lane and to widen the access onto Chatsworth Road as well as providing a gravel-covered hardstanding area to the north-west corner of the site. The applicant has also agreed to the concept of there being an in and out arrangement, which would help with parking and manoeuvring on site, as well as reducing the use of the access onto Rye Flatt Lane.

5.8.3 The LPA has consulted the Highways Authority for the scheme and they provided these comments on the revised scheme:

*The proposal seeks the demolition of an existing annex and the construction of a 4-bedroom dwelling with associated off-street parking served by a modified vehicular access to Rye Flatt Lane.*

*The proposed dwelling is located on Rye Flatt Lane which is an unclassified road subject to a 30mph speed limit, however, Rye Flatt Lane is of single vehicular width and also a cul-de-sac, therefore, vehicle speeds are appropriately low. The Revised Site Plan demonstrates a new vehicular access to the existing dwelling along with modifications to the existing access off Chatsworth Road and modifications to an existing access on Rye Flatt Lane to serve the proposed dwelling.*

*Accordingly, it is recommended the applicant provides emerging visibility sightlines of 2.4m x 18m (commensurate with 15mph vehicle speeds) in both directions from the new vehicular access and modified existing access on Rye Flatt Lane. The areas within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.*

*Whilst it is considered that the proposed modified access off Chatsworth Road benefits from acceptable levels of emerging visibility due to the wide footway/margin, the applicant may wish to consider the sole means of access to the existing dwelling being taken from Rye Flatt Lane, subject to appropriate visibility being achievable.*

*It should be noted that closure of the existing vehicular access to Chatsworth Road would require the associated dropped kerb and footway to be reinstated to the appropriate level.*

*The Revised Site Plan (P- 01) demonstrates an integral single vehicular garage and an area of hardstanding to serve the proposed dwelling, whilst off-street parking bays should be demonstrated by dimensions there appears to be sufficient space within the site to provide 2no off-street parking bays in addition to the garage. Each parking bay should measure a minimum of 2.4m x 5.5m with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc.*

*Therefore, it's recommended that the applicant is given opportunity to submit revised details demonstrating measures to satisfactorily*

*address the above issues. However, should the proposals be acceptable in planning terms and your Authority is minded to approve the application in its submitted form, I would welcome the opportunity to discuss possible highway related condition and notes for inclusion in any decision notice issued.*

5.8.4 It is considered that the existing site utilises the existing permitted access onto Rye Flatt Lane and that the proposal will provide continued usage of this access with an acceptable level of off-street parking provided on site for a dwelling of its size, which in this case is a 3-4 parking spaces for a 5 bedroom dwelling. This is acceptable in relation to the Residential Design SPD (2013), which advises that 4+ bedroom dwellings have 3+ parking spaces. The main impact of the scheme is the introduction of new access onto Rye Flatt Lane to allow the existing dwelling to have off-street parking and throughflow of residential vehicles on site. In the above comments from the Highway Authority they have requested visibility splays for the new access and the closure of the Chatsworth Road exit/access. It is considered that if the Rye Flatt Lane access was a way into the site and Chatsworth Road a way out then a visibility splay isn't required and that a previously agreed/approved access is being utilised. The applicants have offered for the layout to be the opposite way round however a condition will be needed for the details of this to be clarified post decision, as it is considered that the concept is acceptable to both parties. If it is preferable to utilise the Rye Flatt Lane exit as the way out of the site then additional drawings showing visibility splays would also be required, to ensure that acceptable levels of visibility is achieved on site.

5.8.5 Accordingly, it is considered that the access arrangements are considered to be achievable subject to further information submitted at later date. The proposal therefore is acceptable with the requirements of Policy CLP20 of the Local Plan which seeks the provision of adequate and safe vehicle access and parking (criteria g) and a safe, convenient and attractive environment for pedestrians and cyclists (criteria h), as well as CLP22.

## 5.9 **Conservation**

5.9.1 The officer has consulted with the Council's Conservation team for this proposal, as it is within a rear garden of a dwelling which is

within Chatsworth Road Conservation Area, they provided these comments:

*The proposal is to demolish a 1-storey residential bungalow/annex to the rear of 534 Chatsworth Road and replace it with a 2-storey residential property.*

*A new access is proposed to be provided off Rye Lane and the existing access onto Chatsworth Road would be extended. Trees are proposed to be removed (Sycamore, T1).*

*The site is within the Chatsworth Road Conservation Area, therefore any proposed changes should respect or enhance the character and appearance of the area.*

*This part of the conservation area is generally characterised by late Victorian development, including a variety of semi-detached, terraced and infill detached houses, usually in red brick. Properties are predominantly two storeys and often characterised by minor architectural variations, such as projecting gable fronts; dormer windows; stone detailing (including lintels and string courses).*

*Original sash windows remain, but many have been replaced with uPVC and roofs with concrete tiles. Low brick and stone curtilage walls generally survive.*

*The 1-storey bungalow/annex proposed to be demolished is of modern construction, likely to date from the 1970s/80s and does not make any notable contribution to the Victorian character of the conservation area. On that basis I have no objection to the proposed demolition. It's replacement would be a larger 2-storey residential property constructed of red brick with a natural slate roof. The design of the house does to a certain extent reflect the design of houses in the area, particularly the newer builds along Rye Flatt Lane. Whilst it would clearly be a modern house, with for instance modern uPVC windows, there are architectural details that provide some visual interest and continuity with the surrounding area, such as dormer windows and stone detailing. As such the house should blend in reasonably well with the surrounding house types. It should also be noted the house would be set back from Rye Flatt Lane and on the edge of the conservation area so its visual impact and contribution to the surrounding street scene – particularly Chatsworth Road – would be fairly minimal (notwithstanding the increased height).*

*The applicant is proposing to alter an existing natural stone curtilage wall facing Chatsworth Road and Rye Flatt Lane wall to provide new or better vehicle access. These natural stone walls*

*are a common feature in this part of the conservation area and make a positive contribution to its character. Any alterations should be carefully considered and any new work or finishing (e.g. new posts, new stone, coping, re-pointing, etc) should be authentic where appropriate. The applicant's application form states that dry stone walls are to be retained and repaired and the block plan (ref: P-01) states that new walling and gateposts are to match on both sections of access. The applicant's Design & Access Statement (page 5) also confirms that the existing stone walls on Chatsworth Road and Rye Flatt Lane are features that contribute to the conservation area and would be retained, cleaned of ivy, and with repairs and small alterations as needed.*

*I notice that work has already been carried out to enlarge the access onto Chatsworth Road and, in my view, has been carried out to an acceptable standard.*

*On this basis I have no objections to what is being proposed to the curtilage wall. Overall it is only a small proportion of wall that would be lost to provide access, hence the majority would be retained and the wall would still read as a substantial traditional stone curtilage wall.*

5.9.2 It is considered that the conservation officer appraisal of the scheme is agreed and the proposal thereby accords with policy CLP21 of the Local Plan.

## 5.10 **Biodiversity**

5.10.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

5.10.2 As a single dwelling within a domestic garden, a full assessment of existing biodiversity would be unreasonable but, if approved, the applicant should be required to provide appropriate measures to support biodiversity and which would be secured by condition. This would include opportunities for birds/bats/invertebrates to nest (boxes suitable for swifts, swallows or sparrows for example), and

measures to allow mammals such as hedgehogs access to gardens etc.

- 5.10.3 With the application the applicant provided some details of the proposed biodiversity measures including the planting of 2 trees (silver birch and scots pine) mixed shrubs (no details provided), 2 bird boxes, 1 bat box, a grassed area to the front and rear and small gap in fence for wildlife (a hedgehog hole) on site. On the land retained by no.534 it is proposed to plant an apple tree and build a log pile. It is proposed to remove a TPO tree from the site however this is considered in the tree section of the report below. No further details have been provided regarding tree/plant specification and this would be sought via condition.
- 5.10.4 The proposed development is considered to be a relatively minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition will need to be attached to any decision issued to ensure the application provides the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.
- 5.11 **Trees**
- 5.11.1 The existing site has several mature protected trees on it as well several large mature trees surrounding the site. The Council's Tree Officer has been consulted on the application. Reference is made to the Tree Report, Arboricultural Impact Assessment (AIA) and tree protection method statement (AMS) by Anderson Tree Care. Also, details showing the car parking construction method with levels on drawing reference P-04 'Section details of the new driveway' dated 04/08/21 and a revised 'Location and block plan' reference P-01 Rev C have been submitted.
- 5.11.2 In respect of the proposed new access and driveway to 534 Chatsworth Road details show the construction method and levels of the car parking area to 534 Chatsworth Road using a cellular confinement system to distribute the load of the vehicles. The details provided also demonstrate how this can be achieved to meet existing and proposed land and building damp course levels. The plans show that this can be achieved so any construction of

the driveway should therefore comply with these details and the AMS to allow water to access the tree's rooting environment and avoid any unnecessary compaction of the underlying soils. This can be secured by condition.

- 5.11.3 In respect of the alteration to the existing access and driveway off Rye Flatt Lane it is stated in the Anderson tree report and shown on the revised drawing P-01 Rev C that a soft landscaping scheme consisting of shrubs or lawn will be planted between TPO trees T2 & T3 Sycamore. The soft landscaping is acceptable which will remove any need to excavate within the RPA. A more detailed soft landscaping scheme is required to show the species, quantity and implementation method however, this can be required by condition. It is also proposed that the small areas within the retained trees RPA for the new driveway will be re-laid by hand which is also acceptable as long as the areas are prepared by hand. The tree protection method statement submitted with the application is not adequate for this area of works so a condition should be attached if consent is granted to protect the retained tree's rooting environment whilst any construction is taking place.
- 5.11.4 In respect of T3 Sycamore the revised drawing P-01 Rev C and the Arboricultural Impact Assessment by Anderson Tree Care (Justification for the removal of T3) still recommend and shows that T3 Sycamore is proposed to be felled as part of the application on the grounds that it has 'low Amenity Value', average condition, landscape importance low, and its removal would not have "a significant negative impact on the environment and its enjoyment by the public" and attempting to retain it through a building project would mean there was a significant constraint on working methods, which the tree's amenity value does not justify. In response no further information or assessment has been carried out on the tree to justify these grounds.
- 5.11.5 The Council's Tree Officer has undertaken an assessment which confirms that the tree's condition has not deteriorated since a previous visit and some form of pruning such as the removal of dead wood and a reduction of the crown would be appropriate and which would allow the mature tree to be retained in the scheme. An assessment has also been carried out on its amenity value and suitability for a Tree Preservation Order (TPO) using the Tree Evaluation Method for Preservation Orders (TEMPO) and which concluded that the TPO was defensible if challenged.

The Tree Officer comments that no attempt has been made to incorporate the tree into the proposed layout and no tree protection measures have been considered or discussed with regards to the 'significant constraints' other than to fell the tree.

It is therefore recommended that a condition is attached requiring that T3 Sycamore is retained and a further pre commencement condition attached for the tree protection measure to be carried out so that any significant damage to the tree's roots and rooting environment is avoided so that the tree can be retained in the scheme.

- 5.11.6 In so far as the three Pines drawing P01 Rev C now shows mixed shrub planting and a lawn area within the Root Protection Area (RPA) of TPO G1 Pine which is acceptable. As with T2 & T3 Sycamore, there should be no excavations for the re-laying of the existing driveway and the new surface should be constructed on the existing sub-base. If it is found that the existing sub-base is not suitable, and excavation are required then details of the proposals should be submitted for written approval from the LPA.
- 5.11.7 In so far as drainage is concerned an additional drainage run, and a soakaway has now been included on drawing P01 Rev C and which encroaches into the Root Protection Area (RPA) of T3 Sycamore (No RPA is shown on the drawing, presuming T3 Sycamore will be removed but approximate calculations have been provided). Furthermore, no details have been provided of the size of the proposed soakaway but it is clear that this would involve excavations within the trees RPA. The location of the soakaway and drainage run should therefore be re-located or suitable tree protection measures such as hand digging should be submitted, and/or a revised drainage layout provided and approved in writing before any commencement of demolition and construction.
- 5.11.8 The Coal Mining Risk Assessment require the drilling of holes at the four corners of the proposed building's footprint. These holes will be 30 metres deep'. It is considered that such drilling works are acceptable and will have no effect on the retained trees. It is also stated that some facilitating pruning may be required to crown lift the trees for any machinery. Consent has already been granted on decision notice CHE/21/00151/TPO for these works to crown lift the trees.

## 5.12 **Developer Contributions**

- 5.12.1 The development comprises a new dwelling but involves removal of the floorspace of the existing ancillary residential building on site.
- 5.12.2 The CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Proposed Floorspace (GIA in Sq.m)</b>	<b>Existing Floorspace</b>	<b>Net Area (GIA in Sq.m)</b>	<b>CIL Rate</b>	<b>Index (permission)</b>	<b>Index (charging schedule)</b>	<b>CIL Charge</b>
<b>205.7</b>	82	123.7	£80 (High rate)	333	288	<b>£11,470</b>

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

## 5.13 **Coal mining risk and ground contamination**

- 5.13.1 The application site is within the High Risk Area in respect of former coal mining activity. The application is supported by a Coal Mining Risk Assessment which has been considered by the Coal Authority. The report concludes there is a potential risk posed to the development from former coal mining activity. It is therefore recommended that intrusive site investigations are carried out on site in order to establish the risks/issues. On this basis the Coal Authority has recommended conditions to secure the appropriate investigations and remedial works or mitigation necessary to address the risks.
- 5.13.3 The Council's Environmental Health team has been consulted on the proposal and they have concluded that the site is not within an area of potential land contamination. The Coal Authority have

stated that there is a risk of mining gas on site, and that this needs to be investigated further, a note will be added on this matter.

5.13.4 On this basis the proposal is considered to meet the requirements of policy CLP14, subject to conditions.

#### 5.14 **Flood Risk and Drainage**

5.14.1 The site is in a low risk area in relation to risk of flooding. CBC's drainage team and Yorkshire Water have been consulted on the scheme. CBC's drainage team requested that the proposed dwelling should be developed using separate drainage systems. Yorkshire Water Services did not provide a response on the application.

5.14.2 Further information is required regarding soakaways, as there is a proposed soakaway to the front of the site. This soakaway would be within the close vicinity of an existing protected tree on site, and the Council's Tree Officer has requested more details on the matter.

5.14.3 Conditions will be included in a condition to ensure these issues are considered further prior to any future works. This ensures that the proposal is acceptable in relation to Policy CLP13 of the Local Plan.

#### 5.15 **Lighting, noise and air pollution issues**

5.15.1 The Council's environmental health team has commented that several conditions are required to ensure that the proposal doesn't lead a negative impact in terms of an increase in lighting, noise pollution from construction and air pollution from increased traffic. They are requested a restriction on unacceptable lighting to surrounding areas, the workings hours for construction and the inclusion of electric charging points into the scheme.

5.15.2 The requested conditions have all been included in this decision, to ensure that it is compliant with CLP14 of the Local Plan.

#### 6.0 **REPRESENTATIONS**

- 6.1 The application has been the subject of letter consultation sent to surrounding local residents and which has resulted in 1 letter received from Rye Flatt House. The following comments are made:
- 6.2 They have no objection to the principle but raised the issues of highway safety and pedestrian safety from the intensification of the use of Rye Flatt Lane, including poor manoeuvring and visibility, as well as the negative impact of the loss of a section of dry stone wall to the side.
- 6.3 ***The highway authority has considered this aspect of the proposal and requested further information and amendments to the revised highways layout for the existing dwelling. The applicant has agreed to amend the setup and this would include an in and out arrangement on site. This is considered to reduce the highways impact onto Rye Flatt Lane, which is a reasonable compromise for the site.***

## 7.0 **HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
  - The objective is sufficiently important to justify the action taken
  - The decisions taken are objective and not irrational or arbitrary
  - The methods used are no more than are necessary to accomplish the legitimate objective
  - The interference impairs as little as possible the right or freedom
- 7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

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

- 8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England)

(Amendment No. 2) Order 2012 and the 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

## 9.0 **CONCLUSION**

9.1 The proposed development is considered to be acceptable in principle and the site is of an appropriate design to accommodate one new dwelling without detriment to the street scene, highway safety or the amenity of nearby properties. As such, the proposal accords with the requirements of Policies CLP1, CLP2, CLP3, CLP13, CLP14, CLP16, CLP20 and CLP22 of the adopted Local Plan and the National Planning Policy Framework subject to the imposition of relevant conditions.

## 10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be APPROVED subject to the CIL liability notice being served and the following conditions:

### **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: Site Location Plan and Revised Site Layout (revised drawing no.P-01 provided 21/09/21), Proposed Elevations, Proposed Floor plans, Driveway Details, Tree Report (as amended 06/08/21): with the exception of any approved non-material amendment.

*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. No development shall commence (excluding the demolition of existing structures) until;
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

*Reason - To protect the environment and ensure the stability of the site in accordance with CLP14.*

4. 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 past coal mining activity.

*Reason - To protect the environment and ensure the stability of the site in accordance with CLP14.*

5. Construction 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 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.

*Reason - In the interests of residential amenities.*

6. Prior to the commencement of operations on site (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitor's vehicles and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

*Reason - In the interests of highway safety and CLP22*

7. 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) there shall be no new gates or other barriers on the existing or new access.

*Reason - In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan*

8. The development shall not commence until details of the proposed entrance and exit arrangements, as well as parking layout, for the existing dwelling have been submitted to the Local Planning Authority for consideration and have been approved in writing. The dwelling shall not be occupied until the new parking layout and exit/entrance onto/off site have been constructed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. A proposed exit onto Rye Flatt Lane shall also require the submission of suitable visibility splays to ensure existing visibility is possible. The arrangements agreed shall be retained available for use thereafter.

*Reason - In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan*

9. A residential charging point shall be provided for the additional 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 point shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

*Reason - In the interests of reducing emissions in line with policies CLP14.*

10. Concurrent with the submission of soft landscaping details and prior to commencement of the development hereby permitted, a scheme (including a programme of implementation and maintenance) to demonstrate a net measurable gain in biodiversity through the development, shall have been submitted to and approved in writing by the Local Planning Authority. The net measurable gain shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved. This shall include any removal of trees on site, the planting of new trees and shrubs on site, as well as the details of any other biodiversity measures such as bird/bat boxes, hedgehog holes, log piles and any other biodiversity measures on site.

*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.*

11. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

*Reason - In the interest of satisfactory and sustainable drainage and inline with CLP13.*

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:

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) the means of discharging to the public sewer network at a maximum rate of 3.5 litres per second.

*Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal.*

- 13. Development shall not commence until details of a sustainable drainage scheme have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

*Reason - To ensure that the works do not impact a protected tree on site.*

- 14. No dwelling approved as part of the development shall be occupied until the 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.*

- 15. All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties.

*Reason – To ensure the development doesn't impact the residential amenity of surrounding residents in line with policy CLP14.*

- 16. T3 Sycamore of TPO 73 shall be retained and protected with suitable fencing and other tree protection measures throughout any demolition and construction works. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of T3 Sycamore of TPO 73, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and

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

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) a full specification for the installation of boundary treatment works.
- e) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- f) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- g) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires

*Reason: In regards tree protection on site and policy CLP16.*

17. Any new or re-laid driveways which encroach into the retained TPO trees reference T1 Oak, T2 & T3 Sycamore and G1 Pines should be constructed using an approved cellular confinement system as shown on drawing P-04 Rev B 'Section details of new driveway' and Arboricultural Method Statement. The areas within the RPA's should be 'no dig' and any existing driveway or hardcore removed by hand. Once the cellular confinement system has been installed a site inspection by the LPA to approve the works to discharge the condition shall take place before the final surface is laid. Once approved in writing the final surface can be laid. Any new areas of hard landscaping within the retained trees RPA shall be constructed:

- using a 'no dig' method
- by hand (no heavy machinery)
- Retention of the existing sub-base (unless approved in writing by the LPA)
- A porous surface

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

*Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990*

18. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings or hardstanding shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) a scaled plan showing vegetation to be retained and trees and plants to be planted
- b) a schedule detailing sizes and numbers of all proposed trees/plants
- c) Sufficient specification to ensure successful establishment and survival of new planting.

*Reason: In regards visual amenity and biodiversity on site, and policies CLP16 and CLP20.*

19. There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

*Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental*

*and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting.*

20. Obscure glazing to a Pilkington Scale level 4 shall be utilised on the rear and side first floor windows of the proposed dwelling, as shown on drawing P-03. These windows only, shall be installed and retained obscurely glazed thereafter unless otherwise agreed in writing by the Local Planning Authority.

*Reason – In the interests of residential amenity and policy CLP14.*

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

*Reason – In the interests of highway safety and residential amenity, in relation to policies CLP16 and CLP20.*

22. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

*Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.*

23. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or

installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings and future residents of this dwelling, in relation to policy CLP16.

### **Informatives**

1. The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal. 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. As a last resort and subject to providing satisfactory evidence as to why the other methods of surface water disposal have been discounted, curtilage surface water may discharge to the 525 mm diameter public surface water sewer recorded crossing the site. The surface water discharge from the site to be restricted to not greater than 3.5 (three point five) litres/second.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Street Works Act 1990 before any works are commenced to construct a dropped crossover of a footway or verge a licence will be required from Derbyshire County Council. Details can be obtained from the Council's website or Highways Hub ([highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk)) and the applicant is advised to allow at least 6 weeks in any programme of works to obtain the necessary permission to undertake the works.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980 it is an offence to allow mud or other extraneous material to be carried from a development site and deposited on the highway. Measures shall be put in place to ensure that this does not occur or if it does that appropriate measures are taken to cleanse the highway. The Highway Authority reserves the right to undertake street cleansing where the developer fails to do so and to recover the costs from them.

4. Due to the application site being in a Development High Risk Area, Mine gases may be found at the application site and it is therefore the responsibility of the applicant to ensure appropriate investigations and/ or mitigation measures are dealt with appropriately as required by the Building Regulations.