

**ITEM 4**

**Variation of condition 2 (approved drawings) of CHE/18/00859/FUL (Conversion of former church in to four dwellings and construction of eight new semi-detached houses) in order to increase the proposed dormer windows to a sufficient size to allow emergency egress windows to be installed in order to meet the requirements of the current building regulations at St Josephs RC Church, Chesterfield Road, Staveley, Chesterfield for Mr Rafiq Khan**

Local Plan: No allocation

Ward: Middlecroft and Poolsbrook

Plot No: 2/ 4084

Committee Date: 31<sup>st</sup> January 2022**CONSULTATIONS**

|                          |   |
|--------------------------|---|
| CBC Forward Planning     | The changes need to meet CLP20, the increase in dormer size if increases floorspace may impact on CIL.  |
| CBC Environmental Health | No objection  |
| CBC Design Services      | No comment  |
| Derbyshire Constabulary  | No objection  |
| Archaeology              | In the original consultation the advice was to minimise the impact of development on the historical significance in the fabric of the structure. To minimise the impact would be to reduce the number of new dormer type openings at the roofline, by enlarging these openings this further breaks up the roofline and draws the eye. Cannot support this proposal. |
| DCC Planning Policy      | Reiterates the comments made on the original approval relating to CIL providing for education provision, need to secure broadband and consider highway implications.  |

|                           |  |
|---------------------------|--|
| Highway Authority         | No comment   |
| Derbyshire Wildlife Trust | Alteration of the dormer windows does not have any ecological impacts, therefore no further comment. |
| Representations           | Section 106 impact on health to be considered. Please advise of the appropriate process to follow.   |

## **2.0 THE SITE**

- 2.1 The site relates to the conversion and extension of the former church which is now almost at completion as is the adjacent development to the west of the building for new housing. The site backs onto open countryside and is elevated from this. The busy A619 road sits to the front of the site with existing housing opposite. The site is within the defined settlement boundary but surrounded to the north and west by Strategic Gap SG2, with allocated site H8 to the east.

## **3.0 SITE HISTORY**

- 3.1 CHE/18/00859/FUL Conversion of former church in to four dwellings and construction of eight new semi-detached houses - revised plans 21/02/2019, 20/03/2019 and 29/03/2019 – conditional permission 24.04.2019
- 3.2 CHE/19/00392/DOC Discharge of conditions 4 (Drainage), 6 (Construction Management Plan), 9 (Ecology), 10 and 11 (Landscaping), 15 (Employment and Training Scheme), 16 (Materials) and 17 (Levels) of CHE/18/00859/FUL - Conversion of former church in to four dwellings and construction of eight new semi-detached house – Discharge of conditions 28.08.2019
- 3.3 CHE/19/00505/REM1 Variation of conditions 2 (variation of approved plans) and 20 (alterations to garages) on application CHE/18/00859/FUL:- Conversion of former church in to four dwellings and construction of eight new semi-detached houses – conditional permission 07.10.2019
- 3.4 CHE/19/00561/NMA Non-Material Amendment to CHE/18/00859/FUL (Conversion of former church in to four dwellings and construction of eight new semi-detached houses) for alterations to front elevation by increase in size of the dormer windows and amendments to rear

elevation by additional balcony and re-configuration of dormer roof extensions – Unconditional permission 07.10.2019

#### 4.0 **THE PROPOSAL**

4.1 The proposal is to vary condition 2, to allow for amended plans to enlarge the already approved dormer type windows to the front elevation of the building to enable emergency access and egress in order to meet building regulations to allow the accommodation to be occupied.

4.2 It is noted the proposed plans also include changes to the windows within the gable ends of the building, additional roof light to rear, changes from a window to a door on the rear elevation and changes to the large openings on the rear elevation. However, this application relates only to the changes to the dormer windows as applied for. Any other changes are not approved as part of this application and are being considered separately.

4.3 As proposed:



4.4 As approved (Via CHE/19/00561/NMA):





## **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  
CLP13 Managing the Water Cycle  
CLP14 A Healthy Environment  
CLP16 Biodiversity, Geodiversity and the Ecological Network  
CLP20 Design  
CLP22 Influencing the Demand for Travel

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

- National Planning Policy Framework (NPPF)
- Residential SPD

#### **5.4 Key Issues**

- Principle of Development
- Heritage and design
- Residential amenity

#### **5.5 Principle of development**

- 5.5.1 The principle of the development is established by the original, amended approval. The only matter for consideration in this case is the visual, heritage and amenity impact of the change to the dormer windows only and no objection therefore arises to the principle.

#### **5.6 Heritage and Design**

- 5.6.1 It is noted that the Archaeologist has commented in regard to the heritage of the building:

*Please see the advice provided in relation to application CHE/18/00859/FUL. In this response it provided advice on minimising the impact of the proposed re-development on the historical significance vested in the fabric of the structure. It specifically stated that a way of minimising impacts to the existing southern elevation would be to reduce the number of new dormer type openings at the roofline. The current proposal, by enlarging these openings, further breaks up the roofline and draws the eye. For this reason we would not support the proposal.*

- 5.6.2 The building is not a listed building, within a Conservation Area or on the local list of heritage assets. However, it is clearly a building of some architectural and historical interest in the local area which therefore needs to be carefully considered in terms of any changes to the approved development.
- 5.6.3 In this regard 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.

5.6.4 Whilst the original scheme had approval for dormer windows it is clear from the submission that the size of the openings was insufficient for compliance with building regulations. In order to occupy the units safely, building regulation requirements need to be met. The applicant has discussed the amended proposals which have been designed to have minimal additional impact whilst meeting the building regulations. In this regard whilst the dormer windows are larger and the spaces between them reduced, it is considered that the scheme remains within the broad parameters of the original permission and that the proposed change would still allow the original design of the building to be paramount. On balance, the proposal would not adversely impact on the appearance of the building such that a refusal on these grounds can be justified and having regard to the consequential safety issues arising would be a reasonable recommendation.

5.6.5 It is therefore considered that the proposal is appropriate to the original design concept for the conversion of the building and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

## **5.6 Residential Amenity**

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.

5.6.2 It is not considered that the enlargement of the dormer windows to the front elevation as proposed will result in any additional or adverse impacts on neighbouring residents over and above the approved scheme. The windows are some considerable distance from the neighbours to the south who would not be adversely impacted by this amendment.

5.6.3 On this basis the proposal is considered to accord with the provisions of policy CLP14 of the Local Plan.

## **5.7 Developer Contributions**

5.7.1 The CIL liability as agreed under the original application will remain unchanged as no additional floorspace is proposed.

## **6.0 REPRESENTATIONS**

6.1 A representation has been received from Chesterfield Hospital requesting advice on developer contributions, however this is an amendment to an original permission where it would not be possible to seek new contributions. In any case, health contributions are considered by the Derbyshire Clinical Commissioning Group.

## **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 2021 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 Overall the proposal is considered to be acceptable in accordance with policies CLP14 and 20 of the Adopted Local Plan.

## 10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions as updated from the original permission to align with the approved REM1, NMA and DOC applications noted above:

### **Conditions**

1. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non-material amendment. The amended plan hereby approved for the enlargement of the dormer windows to the Church conversion is in relation to the dormer window enlargement only and does not permit any other amendments shown on plan 19.015 PL \_01 Rev A proposed plans and elevations (Church conversion).

Original Submission (superseded plans struck through)

01258/18 2126 - EXISTING ROOF PLAN

01258/18 2125 - EXISTING UPPER GF WINDOWS

01258/18 2125 - EXISTING SECTIONS

01258/18 2124 - EXISTING CELLAR PLAN

01258/18 2123 - EXISTING GROUND FLOOR PLAN

01258/18 2122 - EXISTING ELEVATIONS

18-1433 A(00)-01 LOCATION PLAN

S9203 - TOPOGRAPHICAL SITE SURVEY

07-0057-001 PL1 - VEHICLE TRACKING 1

07-0057-002 PL1 - VEHICLE TRACKING 2

~~18-1433 A(10)-210 REV B - PROPOSED FLOOR PLANS AND ELEVATIONS OF SEMI-DETACHED PROPERTIES~~

18-1433 A(10)-110 REV B - PROPOSED GF PLAN

18-1433 A(10)-111 REV B - PROPOSED FF AND ROOF PLAN

~~18-1433 A(10)-131 REV B - PROPOSED NORTH AND EAST ELEVATIONS~~



~~18-1433 A(10)-133 REV B - PROPOSED SOUTH AND WEST ELEVATIONS~~

18-1433 A(20)-101 REV B - PROPOSED SECTIONS A-A, B-B AND C-C (CHURCH)

18-1433 A(90)-01 REV A - PROPOSED BIN STORE DETAILS

~~18-1433 A(90)-05 REV C - PROPOSED SITE LAYOUT PLAN~~

18-1433 A(90)-21 REV B - PROPOSED SECTIONS A-A, B-B AND C-C (SITE)

18-1433 A(90)-31 REV B - PROPOSED C/FIELD ROAD STREETSCENE

Design & Access Statement

Drainage Strategy Report

Coal Mining Risk Assessment

Site Investigation Report

Ecological Appraisal

Residential Noise Survey

Revised by CHE/19/00505/REM1 and CHE/19/00561/NMA

19.012 PL\_02 Rev B - Proposed Plans and Elevations

19.012 PL\_01 - Proposed Site Plan

19.012 PL\_03A - Proposed Landscaping Site Plan

19.012 PL\_04A - Proposed Site Sections (Sheet 1 of 2)

19.012 PL\_05 - Proposed Site Sections (Sheet 2 of 2)

19.012 PL\_06A Construction Site Management Plan

19.015 PL\_01 - Proposed Plans and Elevations (Church Conversion excluding the dormer windows)

And through this application 19.015 PL\_01 Rev A proposed plans and elevations (Church conversion in relation to the dormer window enlargement only)

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.

2. 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 in accordance with policy CLP13 of the Local Plan.

3. The proposed means of disposal of surface water drainage shall be as agreed by the Local Planning Authority: 'Water Attenuation calculations' dated 21.08.2019, CCTV Drain Surveys Ltd dated 11.06.2019 and the

Foul and surface water drainage layout 07-0057-101 P3 dated 24.06.2019.

Specified by Yorkshire Water as:

- 1) The proposed separate systems of drainage on site with combined off-site
  - 2) The proposed amount of domestic foul water to be discharged to the public foul/combined sewer
  - 3) The proposed amount of curtilage surface water to be discharged to the 225 mm public foul/combined sewer (at a restricted rate of 3.5 (three point five) litres/seconds submitted on drawing 07-0057-101 (revision P3) dated 24.06.2019 prepared by G30 Consulting.
- All as agreed under CHE/19/00392/DOC.

Reason: To ensure that the development can be properly drained in accordance with Policy CLP13 of the Local Plan.

4.
  - A. Development shall only be undertaken on site in accordance with the conclusions of the Site Investigation Report by Haigh Huddleson and Associates.
  - B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.
  - C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

Reason: To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in accordance with policy CLP14 of the Local Plan.

5. Throughout the entire construction phase, the construction management facilities detail on drawing no. PL\_06A entitled Construction Site Management Plan shall be provided and maintained available for use as agreed under the provisions of application CHE/19/00392/DOC.

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

6. The premises, the subject of the application, shall not be occupied / taken into use until the site access / exit has been modified in accordance with the revised and approved application drawings to be provided with exit visibility sightlines (as shown) to the nearside carriageway channel in each direction and all areas in advance of the sightlines being over controlled land/ existing highway and maintained clear of any obstructions greater than 1.0m in height (600mm in the case of vegetation) relative to the same channel level.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Local Plan.

7. The premises, the subject of the application, shall not be occupied/ taken into use until space has been provided within the application site in accordance with the revised and approved application drawings for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ staff/ customers/ service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Local Plan.

8. Prior to the occupation of each respective dwelling, the ecological enhancement measures detailed on drawing no. 19.012-PL\_03A entitled Landscaping Site Plan (as agreed under the provisions of app. CHE/19/00392/DOC) shall be implemented in full and thereafter maintained in perpetuity.

Reason: In the interests of biodiversity and to accord with policy CLP16 of the Local Plan.

9. Prior to the occupation of each respective dwelling, the hard landscaping proposals detailed on drawing no. 19.012-PL\_03A entitled Landscaping Site Plan (as agreed under the provisions of app. CHE/19/00392/DOC) shall be implemented in full and thereafter maintained in perpetuity.

Reason: In order to enhance the appearance of the development and in the interests of the area as a whole in accordance with Policy CLP20 of the Local Plan.

10. Within 28 days of the date of this permission details of a soft landscaping scheme for the approved development shall be submitted to the Local

Planning Authority for consideration. The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall be carried out in accordance with the implementation programme.

Reason: The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole in accordance with policies CLP16 and 20 of the Local Plan.

11. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole in accordance with policies CLP16 and 20 of the Local Plan.

12. No vegetation clearance works shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: In the interests of biodiversity in accordance with policy CLP16 of the Local Plan.

13. Construction work (inc. demolition works) shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason: In the interests of residential amenity in accordance with Policy CLP14 of the Local Plan.

14. Within 28 days of the date of this permission an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities where possible throughout the remaining construction of the development.

Reason: This is a pre commencement condition in order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Adopted Local Plan.

15. The development hereby approved shall be undertaken in accordance with the agreed finished materials schedule detailed below:
- Lindum Cottage Red Multi
  - Marley Anthracite Concrete Tile
  - K Rend Silicone TC in Linen

Reason: To ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality in accordance with Policy CLP20 of the Local Plan.

16. Development of the 8 no. new build dwellings shall be undertaken in accordance with the levels as approved on drawing no. 19.012-PL\_04A, 19.012-PL\_05 and 07-0057-102 P1 (as agreed under the provisions of app. CHE/19/00392/DOC).

Within 28 days of the date of this permission, details of the existing and proposed land levels and the proposed floor levels of the dwellings hereby approved shall be submitted to the Local Planning Authority for consideration. The details submitted shall include sufficient cross sections to fully assess the relationship between the proposed levels and immediately adjacent land/dwellings. The dwelling shall be constructed at the levels approved under this condition unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: The condition is imposed in order to enhance the appearance of the development and in the interests of the amenity of neighbours and the area as a whole in accordance with policies CLP14 and 20 of the Local Plan.

17. 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 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.

18. Development shall be undertaken in accordance with the mitigation measures as set out in the Residential Noise Survey by Nova Acoustics dated 26/11/2018 and no dwelling shall be occupied until all measures have been implemented.

Reason: In the interests of residential amenity in accordance with policy CLP14 of the Local Plan.

19. The car parking spaces to be provided (in accordance with drawing no. Proposed Site Plan - 19.012 PL\_01 and Proposed Plans and Elevations - 19.012 PL\_02 Rev B) shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (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 property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Local Plan.

20. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 2015 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

Reason: In the interests of the amenities of occupants of adjoining dwellings in accordance with policy CLP14 of the Local Plan.

### **11.3 Informative Notes**

1. The Local Planning Authority have prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to design in order to achieve a positive outcome for the application.
2. 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.
3. This approval contains condition/s which make requirements prior to development commencing or within a specified time period. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.