

ITEM 2

**EXTENSION, ALTERATIONS AND CHANGE OF USE OF EXISTING MIXED
USE RESIDENTIAL/COMMERCIAL PROPERTY (SUI GENERIS) TO
SEPARATE RESIDENTIAL UNIT AND CLASS E HAIR SALON AT 53
HEATON STREET, CHESTERFIELD, DERBYSHIRE, S40 3AF FOR MR MILLS**

Local Plan: Unallocated

Ward: West

1.0 **CONSULTATIONS**

Ward Members No comments received

Design Services The site is shown to be at low risk of surface
Drainage water flooding according to the Environment
Agency Flood Maps. However, this should not
impact on the
proposed development. There are two public
sewers running to the side and back of the
existing property. The developer should be aware
of these and liaise with Yorkshire Water as to
their proximity. Any new connections to the public
sewerage system will require prior approval from
Yorkshire Water. Any amendments to existing
drainage on site may require consent from
Building Control.

Coal Authority Do not consider that requiring a Coal Mining Risk
Assessment would be proportionate to the nature
of the development proposed in this particular
case and do not object to this planning
application.

Environmental Providing that the applicant can demonstrate that
Health their activities will not impact on the neighbours
there are no objections. i.e. the applicant must
have a due regard to how their business may
impact on nearby residents with regards to
potential noise issues (from customers,

mechanical equipment, increased footfall/vehicular movements etc.)

Yorkshire Water No comments received

Strategic Planning would require the applicant to submit a sequential assessment considering other location within and on the edge of existing centres where the use would be located. Policy CLP9 of the Local Plan makes an exception to the sequential approach for “Individual small shops designed to serve local day to day needs”. A Hair Salon would not normally be considered a ‘small shop designed to serve local day to day needs’ but, as the use is existing and there would be no physical changes to the unit, it would not be appropriate to ask for a sequential assessment for this use. However the wider range of uses within use class E would still require application of the sequential approach set out in paragraph 87 of the NPPF. In the absence of such an assessment it may be appropriate to apply a condition limiting the use of the commercial unit to a ‘small shop designed to serve local day to day needs’ (on the basis of the exception set out in policy CLP9) and a ‘hair salon’ (on the basis of the established use).

Local Highways Authority The Highway Authority does not consider that a recommendation of refusal would be sustainable and therefore the following conditions should be included in any consent – conditions covering the submission of a construction management plan/construction method statement, retention of existing parking space, provision of cycle parking, height of fence and bin store

Representations One representation received – see report

2.0

THE SITE

2.1

The site subject of this application is situated at the junction of Heaton Street and Rhodesia Road. The building is semi-detached and the ground floor room at the front of the building was previously operated as a hairdressers. The remaining building is a residential

dwelling occupied by the residents of No 53. The main access to the residential dwelling is currently taken through the commercial unit creating a mixed use Sui Generis planning unit.

2.2

The surrounding streetscene is predominately residential in character, comprising of semi-detached and terraced properties with on-street parking. The site is approximately 130m from the Chatsworth Road District Centre which features a mix of commercial and retail premises. The application site is not allocated for a specific use on the Chesterfield Borough Council adopted local plan policies map 2018-2035.



Extract of submitted
location plan ©



Aerial photograph taken from
Google maps ©



Site photographs of existing commercial unit and proposed
new front entrance to residential unit

3.0

SITE HISTORY

3.1

CHE/21/00089/FUL - Change of use from hair salon to ice-cream parlour and single storey side extension to provide a toilet for customers and colleagues – **REFUSED (13.07.2021)** by committee against advice of officers. *Reason - The proposed change of use*

would intensify the use of the premises resulting in additional demand for parking in the locality to the detriment of highway safety contrary to policies CLP20 and 22 of the Local Plan and para 109 of the NPPF.

- 3.2 CHE/20/00454/PNCOU - Conversion of the existing hair salon into an ice cream parlour – **REFUSED, FULL PLANNING PERMISSION REQUIRED (12.01.2021)** *Reason - It was determined that the former hairdressers and residential dwelling form a mixed use premises which are directly linked and are not considered to be separate planning units. This means that you cannot apply under Schedule 2 Part 3 Class C for the change of use from shop (A1 use) to a café (A3 use) as the legislation does not apply to mixed used premises of this type. Application CHE/20/00454/PNCOU therefore does not meet the requirements of the legislation and was **refused**.*

- 3.3 CHE/0998/0493 - Construction of a conservatory – **CONDITIONAL PERMISSION (04.11.1998)**

4.0 THE PROPOSAL

- 4.1 The application proposes the formal separation of the existing hairdressing unit from the dwelling (No 53). Currently access to No 53 is gained from the front door of the hair dressing salon, the application seeks to re-instate a separate access to the residential dwelling by installing a new entrance door to the dwelling to the north elevation fronting Rhodesia Road and blocking up access from the residential dwelling to the unit internally. This would create a separate class E unit with its own facilities and a separate residential unit. Based on the nature of the property the supporting statement concludes that the applicant would maintain ownership of the unit.

- 4.2 The application also includes a small extension to the west elevation fronting Heaton Street. The proposed extension measures 1.6m x 1.7m in footprint and includes works to raise the eaves height of the structure to 2.4m with a mono-pitch roof measuring 3m in height overall. The extension will be faced in matching brick with rosemary roof tiles.

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)
- CLP6 Economic Growth (Strategic Policy)
- CLP8 Vitality and Viability of Centres (Strategic Policy)
- CLP9 Retail
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 6. Building a strong, competitive economy
- Part 7. Ensuring the vitality of town centres
- Part 8. Promoting healthy and safe communities
- 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 Principle of Development

Relevant Policies

- 5.4.1 The application site is unallocated therefore policies CLP1, CLP2, CLP9 are of relevance.
- 5.4.2 Policy CLP1 states that *'The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas.'*

- 5.4.3 Policy CLP2 states that when *‘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);
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;
g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;
h) are not on the best and most versatile agricultural land;’
- 5.4.4 Policy CLP9 states that *‘Across the borough, a sequential approach will be used to assess sites for retail and other town centre uses, to focus such development on town, district, local service centres and local centres to meet the requirements of national planning policy’* and *‘Individual small shops designed to serve local day to day needs will normally be permitted outside defined centres (as shown on the Policies Map) subject to consideration of the impact test thresholds set out above.’*

Considerations

- 5.4.5 The proposal is within walking distance of the Chatsworth Road District Centre and is considered to broadly accord with the principles of CLP1 and CLP2 subject to further consideration of the specific retail impacts and sequential testing requirements.
- 5.4.6 The Strategic Planning Team reviewed the application and provided the following comments;
- 5.4.7 *‘The application would create two separate uses, to which different planning policies would apply. The comments below therefore address each use in turn.*

Residential Unit

The application would separate the residential unit from the ground floor use. The upper floor is already used as a residence, and the location would be suitable for residential use regardless, meeting the criteria of policies CLP1 and CLP2.

New dwellings would normally be required to meet the higher water efficiency standard, secured by condition, but it is recognised that in this case the dwelling already exists so such a condition would not be appropriate.

The creation of a new dwelling would be liable for CIL. It is important the details of existing and proposed floorspace are confirmed so that the existing floorspace can be accounted for and any liability correctly accounted for. As the dwelling is in use it is anticipated that this will result in no liability, but it will need to be confirmed.

Hair Salon (Use Class E)

Hair Salons previously fell into Use Class A1 ('Shops') but are now covered by Use Class E, which covers a much wider range of uses, some of which may not be appropriate in this location.

The updated Use Classes Order does not specifically refer to Hair Salons in its description of the uses covered by Use Class E – and the translation of previous uses to class E is not automatic; some uses previously covered by one class have been split into two or more of the new classes. However in absence of any specific evidence to the contrary; the previous use falling into A1; and Use Class E including provision for 'any other services which it is appropriate to provide in a commercial, business or service locality', I am assuming that the description of the proposed use as Class E is correct.

Most (but not all) of the uses within Use Class E would be considered 'Main Town Centre Uses' under the definitions set out in the NPPF, and therefore subject to the sequential approach, which would require the applicant to submit a sequential assessment considering other locations within and on the edge of existing centres where the use would be located.

Policy CLP9 of the Local Plan makes an exception to the sequential approach for "Individual small shops designed to serve local day to day needs". A Hair Salon would not normally be considered a 'small shop designed to serve local day to day needs' but, as the use is

existing and there would be no physical changes to the unit, it would not be appropriate to ask for a sequential assessment for this use.

However the wider range of uses within use class E would still require application of the sequential approach set out in paragraph 87 of the NPPF. I would note that the NPPF has been updated since the introduction of use class E, and continues to refer to 'Main Town Centre Uses' rather than specific Use Classes, so the application of the sequential assessment continues to apply when the principle of development for uses within the new Use Class E.

In the absence of such an assessment it may be appropriate to apply a condition limiting the use of the commercial unit to a 'small shop designed to serve local day to day needs' (on the basis of the exception set out in policy CLP9) and a 'hair salon' (on the basis of the established use). This would prevent a conflict with the sequential requirement of the NPPF and accord with Local Planning Policy CLP9, whilst allowing future expansion into other 'E' class used to be properly considered through an application to vary the condition accompanied by a suitable sequential assessment.

The floorspace of the unit is too small to trigger the need for an impact assessment, being under the thresholds set out in policy CLP9 (it would be unreasonable to request one regardless, given that the use is already established). As a use formerly with Use Class A1, the commercial unit would also be also be CIL liable.

As for the residential unit above, clear information should be sought about when the unit was last used for it's lawful purpose, so that the existing floorspace can be accounted for in calculating whether there is any potential liability.'

- 5.4.8 The consultee comments above have been noted. The residential use will remain as existing, the only change to this element of the site is the access arrangements, by closing off internal access to the unit and creating a new front entrance door solely serving the residential occupants of No 53.
- 5.4.9 The commercial unit previously operated as a hairdressers and has been in operation for a number of years. The application seeks to create a separate self-contained class E commercial unit at ground floor only. As noted above, the application refers to Class E which relates to the new use class order published in September 2020 which created a 'commercial, business and service' class to make it

easier for businesses to change uses within commercial premises. The Strategic Planning team highlighted that some of the uses within Class E are considered to be 'Main Town Centre Uses' under the definitions of the NPPF and therefore subject to sequential testing requirements.

- 5.4.10 As noted in section 5.4.7 Policy CLP9 of the Local Plan makes an exception to the sequential approach for "Individual small shops designed to serve local day to day needs". A Hair Salon would not necessarily fall into this category, however, as the use is existing and there would be no physical changes to the unit, it would not be appropriate to ask for a sequential assessment for this specific use in this case.

However the potential for alternative E uses should be considered notwithstanding the scale of the unit (30.6sqm) and the existing commercial operation which suggest that it would be unreasonable and not proportionate to request further sequential testing.

As suggested by the policy officer the opportunity to restrict a permission to the type of use which can be accepted as an exception use (together with a hair salon on the basis the premises is already used for that purpose) could overcome the policy concern. This would accord with the advice in the NPPF.

- 5.4.11 Consideration of amenity impacts on surrounding occupiers (CLP14 and CLP20) and influence on highway safety (CLP20 and CLP22) will be considered in the following sections

5.5 Design and Appearance of the Proposal

Relevant Policies

- 5.5.1 Local Plan policy CLP20 states '*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.*' For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

Considerations

- 5.5.2 The application seeks consent for the installation of a new front entrance door to the north elevation to be accommodated within the existing window opening. Based on the configuration of the site frontage it appears that historically there was a separate access with small gate in the boundary wall.
- 5.5.3 The application also includes alterations to the existing single storey projection to the side (south east) elevation of the building, raising the height of the structure and erecting a small extension to the south. The proposed alterations and extension to the building are modest and are considered to be proportionate in scale with the host building. The design of the extension reflects the character of the building with matching materials.
- 5.5.4 It is recommended that a condition be imposed restricting permitted development rights for further expansion on the site without submission of a full application to allow for consideration of potential impacts on the constrained site frontage including parking arrangements, accessibility and visibility requirements.
- 5.5.5 The application is supported by details of proposed commercial waste storage on the site frontage with a solid timber fence measuring 1.8m in height and configured in a triangular arrangement. The Local Highways Authority has requested a condition requiring the fence around the bin store to be less than 1m in height above the nearside carriageway level. It is therefore necessary to consider the height of the structure to provide sufficient visual screening to protect the visual amenity of the area without adversely impacting visibility.
- 5.5.6 It is therefore recommended that a condition be imposed requiring further details of proposed waste storage. The size of the bin store will be impacted by the number of bins required however there is potential for an amended arrangement set back from the highway and adjacent to the projecting store/customer w.c
- 5.5.7 Subject to conditions covering the above, the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with Local Plan policy CLP20.

5.6 Impact on Residential Amenity of Surrounding Occupiers including noise and nuisance

Relevant Policies

- 5.6.1 Local Plan policy CLP14 states 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'*. For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.
- 5.6.2 Local Plan policy CLP20 expects development to *'k) have an acceptable impact on the amenity of users and neighbours;'* For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

Considerations

- 5.6.3 The application site has a historic use as a hairdressers and therefore a turnover and frequency of visitors is established. The existing hairdressers could be re-opened with no restrictions on opening hours or numbers of customers and this a legitimate fall-back position.
- 5.6.4 The Council's Environmental Health Officer raised no objection subject to the applicant demonstrating that the activities will not impact on the neighbours with regards to potential noise issues from customers, mechanical equipment, increased footfall/vehicular movements.
- 5.6.5 It is acknowledged that the proposal for a class E use will open up opportunities for a wider range of occupants to the unit. It is considered that a condition restricting the E class uses to those which meet the exception test in policy terms (Individual small shops designed to serve local day to day need) will overcome this concern.
- 5.6.6 Subject to such a condition, the proposal is considered to accord with the provisions of Local Plan policies CLP14 and CLP20.

5.7 Highways Safety, Cycle Provision and Parking

Relevant Policies

- 5.7.1 Local Plan policy CLP20 expects development to *'g) provide adequate and safe vehicle access and parking;'* and *'h) provide safe, convenient and attractive environment for pedestrians and cyclists'*.

For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

- 5.7.2 Local Plan policy CLP22 details the requires *‘To reduce congestion, improve environmental quality and encourage more active and healthy lifestyles, the Council will seek to maximise walking, cycling and the use of public transport through the location and design of development and parking provision’* and seeks *‘e) provision of opportunities for charging electric vehicles where appropriate.’* For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

Considerations

- 5.7.3 The application site is not served by any off-street parking for customers with the exception of one existing space to serve the residential occupants of No 53 Heaton Street.
- 5.7.4 The Local Highway Authority were consulted on the scheme and provided the following comments;
- 5.7.5 *‘It is understood that the part of the premises to be a hair salon has previously operated as such but does not do so at the present time. Comments are given on the assumption that such a use could recommence without the need for planning permission but that planning permission is required for other aspects of the proposal. It is also assumed that a hair dressing salon / barbers shop come under the same use class as far as planning is concerned.*

On the basis of the above, the Highway Authority does not consider that a recommendation of refusal would be sustainable and therefore the following conditions should be included in any consent.

1.No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.

- *Parking of vehicles of site operatives and visitors*
- *Routes for construction traffic, including abnormal loads/cranes etc*

- *Hours of operation*
- *Method of prevention of debris being carried onto highway*
- *Pedestrian and cyclist protection*
- *Proposed temporary traffic restrictions*
- *Arrangements for turning vehicles*

2. The existing off-street parking space shall be retained for use solely by the residential dwelling.

3. The hair salon hereby permitted shall not be occupied until the cycle parking facilities shown on the approved drawings have been implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

4. Notwithstanding the submitted details, the fence around the bin store area shall not exceed a maximum height of 1m above nearside carriageway channel level.'

5.7.6

The Local Highway Authority have not raised an objection to the scheme as submitted subject to conditions. The recommended conditions are addressed below;

Condition 1 – construction management plan/construction method statement. The works proposed include a very small extension and internal alterations to the existing structure to the eastern elevation of the building to separate the residential and commercial uses. The works proposed are modest and small scale and therefore the imposition of this condition is considered to be unreasonable and disproportionate.

Condition 2 – retention of existing off-street parking space for residential occupants of No 53. It is recommended that this condition be imposed on the decision.

Condition 3 – cycle parking provision condition. It is recommended that this condition be imposed on the decision.

Condition 4 – details of bin store. It is recommended that further details of the proposed bin store should be submitted and controlled by condition.

5.7.7

The existing use as a hairdressers provide a legitimate fall back position and could re-open without restrictions on opening hours or customer numbers. Whilst it is possible for the proposed use to increase the number of visitors to the premises, it is not considered that the proposal will result in a substantial demand for parking over and above the existing authorised use of the premises. On the basis

that the use can be restricted within class E to uses which meet a local day to day need or hairdressers the restriction on opening hours or delivery times would be regarded as unreasonable and excessive. It is considered that there is opportunity for secure cycle storage on the site frontage which can be controlled by condition. The premises are also accessible on foot, cycle and by public transport connections thereby a reason for refusal based on these grounds is warranted.

- 5.7.8 Paragraph 109 of the NPPF states that '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'. As set out above, on the basis of the existing use it is considered that the proposal will not result in a severe residual cumulative impact on the road network or an unacceptable impact on highway safety sufficient to warrant either a temporary permission or refusal. Subject to conditions as discussed above the proposal is considered to accord with the requirements of CLP20 and CLP22.

5.8 Flood risk and Drainage

Relevant Policies

- 5.8.1 Local Plan policy CLP13 states 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. Development proposals and site allocations will:*
- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;*
 - b) be directed to locations with the lowest impact on water resources;*
 - c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.*
- For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.

Considerations

- 5.8.2 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. Having regards to the provisions of CLP13 and the wider NPPF the application was referred to the Council's Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water

- 5.8.3 The Design Services (Drainage) Team reviewed the application and highlighted that *'a small area of the site is at low risk of surface water flooding according to the Environment Agency Flood Maps. However, this should not impact on the proposed development. There are two public sewers running to the side and back of the existing property. The developer should be aware of these and liaise with Yorkshire Water as to their proximity. Any new connections to the public sewerage system will require prior approval from Yorkshire Water. Any amendments to existing drainage on site may require consent from Building Control.'*
- 5.8.4 Yorkshire Water were consulted on the proposal and no comments were received. Any issues of sewage connections or Building Over Agreements are appropriately controlled by the Water Authority. It is recommended that an informative note be attached to the decision covering the requirements.
- 5.8.5 The proposal is considered to accord with the provisions of CLP13 and the wider NPPF.

5.9 Ground Conditions, Land contamination and Land Stability

Relevant Policies

- 5.9.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land 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. For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.*

- 5.9.2 Paragraph 178 of the NPPF states that *‘Planning policies and decisions should ensure that:*
a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.’

Considerations

- 5.9.3 The application site is located in an area considered to be at ‘high risk’ of former Coal Mining Legacy. Having regards to the provisions of CLP14 and the NPPF the application was referred to The Coal Authority.
- 5.9.4 The Coal Authority reviewed the scheme and provided the following comments; *‘when considering the nature of this particular development proposal, it does not appear that the single storey side extension to provide a toilet/storage area will require substantial foundations or earthworks. On this basis we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the scale and nature of the development proposed in this particular case and do not object to this planning application’*. The Coal Authority requested that an informative note be included on the decision should permission be granted.
- 5.9.5 Subject to the imposition of an informative note the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.10 Biodiversity

Relevant Policies

- 5.10.1 Local Plan policy CLP16 states that *‘The council will expect development proposals to:*
• avoid or minimise adverse impacts on biodiversity and geodiversity;
and

- *provide a net measurable gain in biodiversity'*

5.10.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).

Considerations

5.10.3 The application seeks consent for a small extension to the existing building which is considered to have minimal impacts on biodiversity. It is therefore recommended that a condition be imposed on the decision to secure a net gain by condition such as a bird box in the rear garden, with explanatory details and potential enhancements contained in a footnote to be addressed by the applicant

5.10.4 On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan and the NPPF.

5.11 Developer Contributions and Community Infrastructure Levy

5.11.1 The use of the property is currently a Sui Generis use however it would become technically new separate residential and commercial units which would be regarded as CIL liable development. In terms of the CIL charge, it is the case that if direct evidence of existing or recent use can be provided in line with the regulations then there is the prospect that the CIL charge would be £0.

6.0 REPRESENTATIONS

6.1 The application has been publicised by neighbour notification letters site notice and one letter of objection has been received from 4 Rhodesia Road (main points copied below);

- The plans indicate the intended use of the premises to be a Barbers' Shop. This will potentially increase the amount of custom from approximately one per hour (for a hairdressing appointment as indicated in the clients' previous planning submissions) to around three per hour per stylist.
- Bearing in mind the concerns and grounds for refusal of previous applications - traffic increase, parking, and particularly road safety - I should like to ask that the Planning Committee consider imposing a condition of a maximum of 2 'chairs' within the business – even this could substantially increase traffic from the previous salon.
- I note that there are plans to erect a fence for bin storage to a height of 6' at the front of the property, and have some concern

that this would further obscure vision for drivers exiting Rhodesia Road onto Heaton Street; already limited.

- That the opening hours are restricted to those of the previous hairdressing business, which I believe were Monday, Tuesday, Thursday and Friday 9 – 5, half days Wednesday and Saturday.

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 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 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 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 consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to the roof design in order to achieve a positive outcome for the application.

9.0 CONCLUSION

- 9.1 The proposal is within walking distance of the Chatsworth Road District Centre and is considered to broadly accord with the principles of CLP1 and CLP2 as a sustainable location for a commercial operation. The existing use as a hairdressers which could be re-opened with no restrictions regarding the opening hours and number of customers. It is therefore considered that the proposal will not result in a severe residual cumulative impact on the road network or an unacceptable impact on highway safety sufficient to warrant a refusal. On the basis of the previous use as a hairdressers it is considered that the proposal will not result in significant adverse impacts on residential amenity such that a refusal is warranted. Subject to conditions limiting the range of E class uses to Individual small shops designed to serve local day to day needs and covering commercial waste storage, cycle parking, biodiversity net gain, parking for residential dwelling, the proposal is considered to accord with CLP14, CLP16, CLP20 and CLP22

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 - This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

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, drawing unnumbered (received 27.10.2021)
 - Proposed ground floor (received 23.09.2021)
 - Proposed front elevation 1 (received 19.10.2021)
 - Proposed side elevation 2 (received 23.09.2021)
 - Proposed rear elevation 3 (received 23.09.2021)

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. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the E class uses hereby permitted by this permission shall be limited to hair dressers or individual small shops designed to serve local day to day needs as referred to in the 2021 NPPF.

Reason – To limit the range of uses within use class E having regard to the absence of a sequential approach set out in paragraph 87 of the NPPF but which takes account of the exception test set out in policy CLP9 of the Chesterfield Local.

4. 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 non-domestic extensions, alterations etc as set out in Schedule 2 Part 7 Class A shall be erected without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason - To safeguard the visual amenities of the in accordance with Local Plan policy CLP20.

5. Details of proposed waste storage including location of bins and appropriate screening shall be submitted to the local planning authority for consideration prior to the opening of the business. The details agreed in writing shall be implemented on site prior to the opening of the business and shall thereafter be maintained throughout the life of the development free from any impediment to their designated use.

Reason - To preserve the amenity of the nearby residential properties and visual character of the area in accordance with policy CLP14 and CLP20

6. A minimum of 3 cycle parking stands shall be installed on site in accordance with submitted drawing 'Site Plan, drawing unnumbered (received 27.10.2021)'. The cycle stands shall have been installed prior to occupation of the new separated commercial unit and shall thereafter be maintained throughout the life of the development free from any impediment to their designated use.

Reason- To provide cycle parking in accordance with CLP20 and CLP22.

7. One parking space, measuring a minimum of 2.4 metres by 4.8 metres, shall be retained to serve the residential occupants of No 53 Heaton Street. The parking space shall be retained permanently for domestic car parking unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure adequate off- street parking provision is provided in the interests of highway safety in accordance with CLP20 and CLP22 of the adopted Chesterfield Borough Local Plan

8. Within 2 months of the commencement of the development hereby approved, a scheme for biodiversity and ecological enhancement measures shall be installed/integrated into the development site. The ecological enhancement measures shall thereafter be retained and maintained throughout the life of the development.

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 175 of the National Planning Policy Framework

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. Please note that this planning permission for shop front alterations does not give any permission for the display of advertisements. Advertisements are dealt with under separate legislation and any advertisements could require separate consent under the Town and Country Planning (Control of Advertisements) (England) regulations 2007. You would be advised to contact the Council prior to erecting any signage.
3. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries

(shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

4. A combined public sewer runs to the back and side of the proposed extension. The developer should contact Yorkshire Water regarding its proximity, as a Building Over Agreement or easement may be required. Any connections to this sewer, would also require their approval. Any amendments to existing drainage on site may require approval from Building Control.
5. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness

6. In accordance with the biodiversity net gain condition above appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
- Bird/owl/bat boxes
 - (Locating your nestbox: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
 - You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
 - The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.
 - Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)
 - (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
 - Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.

- Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.