

ITEM 1**PROPOSAL: APPROVAL OF RESERVED MATTERS (APEARANCE, ACCESS AND LANDSCAPING) OF CHE/21/00286/OUT FOR DWELLING ON LAND ADJACENT TO 16 EYRE STREET EAST, HASLAND, CHESTERFIELD, S41 0PQ FOR BIX AND OSHIN DVELOPMENT LTD**

Local Plan: unallocated

Ward: Hasland

Committee Date: 30th August 2022**CONSULTATIONS**

Ward members	No representations received
Strategic planning	<u>Comments received 26/05/22:</u> No adverse comment received.
Environmental Health	<u>Comments received 25/04/22:</u> No adverse comments to make
Design Services	<u>Comments received 15/07/22:</u> The revised matters received are not drainage related; therefore, I would refer back to my original comments in the initial application, and in particular to the presence of the public sewer on the development site.
Yorkshire Water Services	<u>Comments received 22/04/22:</u> No observation comments to make on this reserved matters application. Proposed foul and surface water drainage proposals can be dealt with via a future discharge of conditions 7 and 8.
Local Highway Authority	<u>Comments received 10/05/22:</u> No objection subject to conditions – see report
CIL Officer	No representations received
Neighbours	3no. representations received from the same objector – see report.

2.0 **THE SITE**

2.1 The application site is located in the built-up area of Hasland off Storforth Lane. The site is largely hard-surfaced area with a row of flat roof garages to the rear of the site. There is a brick wall to the site frontage. The area around the site is predominantly terraced housing, there is a takeaway to the corner of Eyre Street and York Street. To the rear the site abuts the rear gardens of the dwellings fronting York Street.

3.0 **SITE HISTORY**

- 3.1 CHE/21/00286/OUT - Residential development (1 dwelling) - Outline with some matters reserved – Conditional permission granted 22/06/2021
- 3.2 CHE/18/00793/REM1 Removal of condition 9 (car parking spaces) of CHE/16/00721/OUT - Residential development of one detached house -Refused 10.01.2019
- 3.3 CHE/16/00721/OUT Residential development of one detached house, amended description and plan received 10th January 2017 – Conditional Permission 23.02.2017
- 3.4 CHE/07/00709/FUL Detached dormer bungalow – Refused 15.11.2007
- 3.5 CHE/07/00218/FUL 2 no. houses (semi-detached) – Refused 30.05.2007
- 3.6 CHE/21/00286/OUT - Residential development (1 dwelling) - Outline with some matters reserved – Conditional permission granted 22/06/2021

4.0 **THE PROPOSAL**

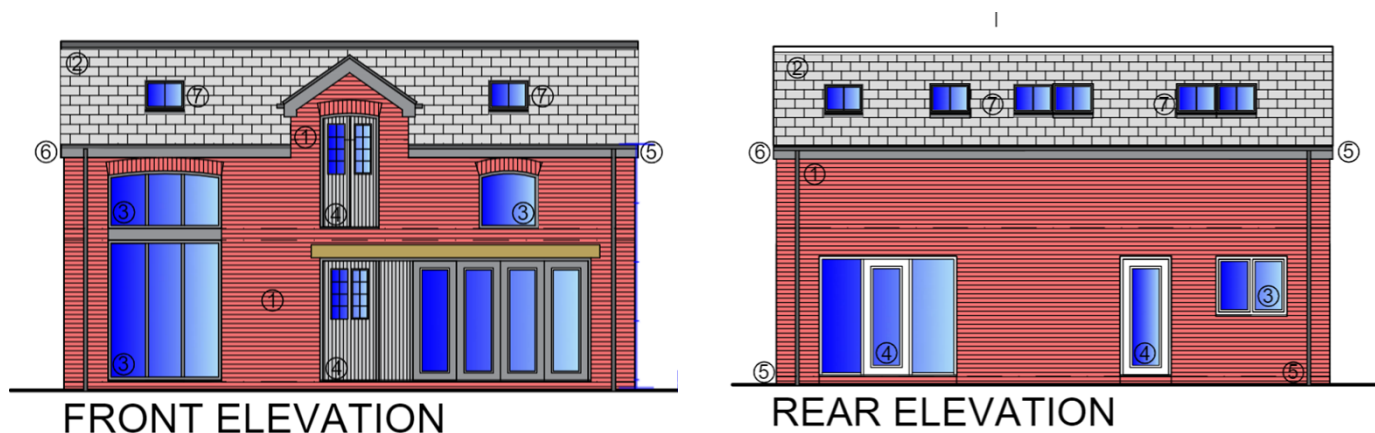
- 4.1 This application is for the approval of reserved matters following the conditional consent of an outline application for the erection of 1 dwelling at the application site. The application seeks approval of the appearance, landscaping and layout of the application.
- 4.2 The proposal is for a 1.5 storey dwelling with a footprint of 9.7 metres x 5.7 metres. The dwelling is proposed to have a maximum height of 5.9 metres and the eaves will have a height of 4.2 metres.

4.3 In the west facing elevation (being the front elevation), the dwelling is proposed to have a functional appearance to it with a vertical floor to ceiling window to the north of the elevation and a wide expanding series of vertical windows to the south side. Centrally, at first floor level, a window in a small gable in proposed which adopts the appearance of being used as a door alongside an arched window. Two roof windows are also proposed in the roof slope.

4.4 The ridge line of the proposed dwelling is to run along the north / south axis of the application site and therefore the gables of the property will present to the north and south. No windows are proposed in the gables.

4.5 In the rear elevation, the proposed dwelling will include a patio door to the south of this elevation, which will be surrounded by glazed windows on either side of the door, to be the same height as the patio door. A single door is proposed to be located to the north of the elevation, with a window also located to the north of this. No windows are proposed in the east facing elevation at first floor level. A series of 6no. roof windows are proposed in the roof slope.

4.6 The proposed dwelling is detailed to be finished in brick work the match the surrounding houses, with blue slate roof. The windows will be finished in grey upvs with doors being upvc grey / timber boarded. Rain water goods are to be plastic black and the roof windows will be grey.



4.7 The application proposes the retention of no.1 of the existing garages; the one located to the north east of the application site, that shares a boundary with numbers 61, 67, and 69 York St.

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 National Planning Policy Framework

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

5.5 Key Issues

- Principle of development
- Design and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highways safety and parking provision;
- Biodiversity, impact on protected species
- Ground conditions

- Drainage and flooding
- CIL liability

5.6 Principle of Development

5.6.1 The principle of the development has been established in the outline consent CHE/21/00286/OUT. The officer report for this outline consent is noted to have discussed the appropriateness of the location of the application site as being considered a sustainable location and delivering the criteria set out in Local Plan policies CLP1 and CLP2.

5.6.2 As the principle has been established, development will need to accord with wider policies of the Local Plan which have been raised as a result of the submission of further information – namely being CLP14, and CLP20. This report will assess to what extent the development is considered to be acceptable given the submission of further information in this application.

6.0 CONSIDERATION

6.1 Design and Appearance of the Proposal

6.1.1 Local Plan policy requires that “All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context, that development will be expected to a) promote good design, and b) respect the character, form and setting of the site and surroundings.”

6.1.2 It is noted at the outline submission, the proposed development was limited to a reduced height of 1.5 storey and no windows are to be included in the upper floor rear elevation. The submitted dwelling complies with both of these requirements and therefore is considered to conform to the requirements of the outline consent.

6.1.3 Following the submission of revised drawings received on 07/07/2022, the dwelling now takes a functional appearance as recommended by the officer in the outline report. This was considered the best approach to ensure the dwelling could comply with the requirements to have no windows in the upper floor rear elevation whilst also having a 1.5 storey limit in height.

6.1.4 The outline report indicated however that the placing of windows in the proposed dwelling needed some review at the reserved matters stage to ensure the building adopted an appropriate functional appearance whilst also assimilating with the application site. The application site is located in

an area typically characterised by terraced dwellings which are finished in red old brick. A dwelling of similar appearance at the application site to those surrounding is not considered to be appropriate due to the constraints presented by the site and the need to demonstrate compliance with the current adopted Local Plan. A functional appearance is therefore considered to give character to the streetscene and not be significantly at odds with the established character. It is therefore considered, the functional appearance of the dwelling proposed appropriately addresses and overcomes the constraints of the application site. The dwelling will have a reduced height in comparison to the neighbouring dwellings and this will assist in minimising the presence of the dwelling within the streetscene. It is acknowledged that the proposal is to be set slightly forward (approximately 0.7 metres) of the neighbouring dwellings on Eyre Street East however, as is to be discussed in the report, this is to ensure compliance with regards to the amenity of the occupants and neighbouring occupants. It is accepted that this will be a minor anomaly in the streetscene owing to the defined established building line but having regard to the separation distances afforded to the neighbouring dwellings (no. 16 Eyre Street East and no. 18 Eyre Street East), it is not considered this is sufficiently harmful such that a refusal is warranted.

6.1.5 The dwelling is proposed to be finished in brick to match the neighbouring dwellings. This is considered to be an acceptable material to ensure the dwelling is acceptable in appearance. The use of brick to match the neighboring dwellings is also considered to ensure the application site adds to the established character of the area. It is considered appropriate however for this LPA to have details of the materials to be used prior to the ordering to ensure the match of the brick is acceptable – a suitably worded planning condition can be imposed to ensure this information is forthcoming.

6.1.6 Overall, it is therefore considered the proposed development is appropriate to the existing area and its surroundings and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of Local Plan policy CLP20.

6.2 Impact on Neighbouring Residential Amenity

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

- 6.2.2 It is noted that concerns were raised at the outline stage (and the reserved matters stage) for the impact that the erection of a building on this site will have on the neighbouring residential dwellings through the loss of light and overlooking.
- 6.2.3 Having regard for the residential amenity of the occupants of the proposed dwelling, it is considered the proposal offers acceptable living accommodation within the constraints of the application site. The dwelling has a gross internal floor area of approximately 92 square metres. This internal floor area exceeds the minimum standard (of 84 square metres for a three bed, 4 person dwelling) set as set out in the Nationally Described Space Standard. Although not adopted by this LPA, the document can be used as an indicator of the level of amenity any proposed dwelling will offer. Whilst the dwelling provides sufficient space, the bedroom labelled as bedroom 3 is noted to be smaller than the minimum recommended. Bedroom 3 measures approximately 6.6 square metres however to be considered as a single bedroom, the NDSS states that a bedroom should be a minimum of 7.5 metres squared. Both the master bedroom (bedroom 1) and the second bedroom comply with the standards for double and single occupancy rooms respectively; hence the dwelling is therefore considered to be a three bed, four person dwelling. Whilst it is acknowledged the third bedroom is lacking in the floor space area, it is considered overall, the dwelling provides an acceptable level of amenity for any future occupants whilst resulting in a development that addresses the site constraints.
- 6.2.4 Having regard to the outdoor amenity space, the matter regarding the reduced depth of the garden was addressed in the outline application. Notwithstanding the reduced depth, the proposal offers approximately 78 square metres of amenity space which exceeds the recommended minimum of 70 square metres as set out in the Councils adopted SPD "Successful Places". It is considered the amenity space will be private as a result of the existing layout of the dwellings surrounding the application site with no dwellings being located immediately to the east of the application site; hence the reason of the reduced depth can be accepted.
- 6.2.5 The outline application accepted that the gardens of nos. 59 and 61 York Street would likely receive some loss of light in the evening - mainly in the summer months – however the neighbouring dwelling to the south of the application site (no. 16 Eyre Street East) was noted to be likely to already cause a degree of overshadowing to these gardens as it is located to the to the south west of the gardens. The outline application concluded therefore with a reduced height (of 1.5 storeys) the dwelling proposed could be accommodated within the application site without a degree of harm to the

neighbouring gardens that evoked the need for a refusal. Given the siting and height were agreed at the outline stage, this is a matter that has already been addressed.

- 6.2.6 It is noted however that the reserved matters application seeks to retain one of the existing garages that is located at the north east corner of the application site. This is not considered to cause harm to the neighbouring dwellings and is therefore considered to be acceptable. In conjunction with the retention of one of the existing garages, the application proposes to retain the existing rear wall of the garages as the boundary of the application site. This will therefore form the east boundary of the application site, as well as part of the west application site boundary. The wall is indicated to have a height of 2 metres. The west boundary of the application site is detailed to be formed by the north facing elevation of no.16 Eyre Street East as well as the existing wall that is located to the west of the application site and also forms part of the boundary at the south west corner of the site. The retention of the wall around the perimeter of the application site is considered to be acceptable and is welcomed as a means of retaining character at the application site as well as privacy for the neighbouring dwellings. Finally, the north boundary of the application site is detailed to be formed of a 0.9 metre high fence. This will extend to the front (west) elevation of the proposed retained garage.
- 6.2.7 The proposed dwelling is to be located on a parcel of land that is currently utilised for garages. Given the use has not previously been residential it is considered essential to achieve a design that is sensitive to the neighbouring properties so as not to cause detrimental impact to the occupiers of them. It is considered, overall, the scheme proposed seeks to limit opportunities for overlooking to the neighbouring dwellings. This is demonstrated by the limited height of the proposed dwelling, as well as the omission of windows in the first floor east facing elevations. In addition, no windows are proposed in the gables of the property and this is welcomed to retain privacy for the neighbouring occupants. It is considered this privacy will be retained through the Permitted Development legislation as windows installed at first floor level in a side elevation are required to be obscurely glazed and non-opening unless the opening is 1.7 metres above first floor level. It is therefore considered unreasonable to impose a condition for this matter.
- 6.2.8 It is therefore considered, the proposed development accords with policy CLP14 and CLP20 of the Local Plan as the development is considered to have an acceptable impact on the amenity of the adjoining occupiers

through appropriate design which responds to the character of the application site and wider area.

6.3 Highways Safety and Parking Provision

6.3.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.

6.3.2 To determine the impact of the proposed development on the immediate highway and surrounding area, the Local Highway Authority were consulted. The comments received on 10/05/22 indicated the following;

“The Site Plan submitted with this current application demonstrates sufficient levels of off-street parking by way of driveway to serve the proposed dwelling, it now appears that an existing single garage associated with the site will be retained. Whilst the existing garage is below recommended dimensions, the proposed off-street parking bays fronting the garage are sufficient to serve a 3no bedroom dwelling, therefore, in view of the Site Plan being the same in principle as what was proposed as part of the outline application the Highway Authority has no objections to the proposals subject to the following conditions being appended to any consent: -

1. At 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 visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

2. Before any other operations are commenced (excluding condition 1 above), the existing access to Eyre Street East shall be modified in accordance with the application drawings, laid out, constructed and provided with 2.4m x maximum visibility splays in both directions. The area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

3. Prior to the occupation of the dwelling, any length of the existing vehicular access to Eyre Street East made redundant by the development proposals shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

4. *The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking of resident's vehicles, laid out, constructed and maintained throughout the life of the development free from any impediment to its designated use.*

5. *There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.*

6. *The modified access/driveway to Eyre Street East shall be no steeper than 1 in 12 over its entire length.*

7. *No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.*

In addition to the above Conditions, the following notes should be appended for the applicant's information:

a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*

b. *Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – highways.hub@derbyshire.gov.uk The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.*

c. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.

d. The Highway Authority recommends that the first 5m of the modified access / driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.

e. There is a street lighting column on the site frontage, any necessary relocation of this and/or diversion/protection of Statutory Undertakers apparatus will be at the applicant's expense."

6.3.3 The comments received from the LHA are noted and it is considered appropriate for the development proposed. It is highlighted however that the conditions (numbered 1 – 6) as recommended by the LHA were imposed on the outline consent and therefore do not need to be repeated on any approval of the reserved matters. The informative notes can be appended to any decision notice for the applicant's information.

6.3.4 It is noted the officer report for the outline application indicated that the then indicative layout plan included car parking spaces that did not meet with the current adopted standards (2.4 metres x 4.8 metres) as set out in the SPD. The two spaces as indicated have been amended in this submission both now measure the required minimum. It is acknowledged however that the space noted as car parking space 2 is not set the minimum set back away from the garage (minimum measurement being 5 metres) to account for the garage door opening. It would not be possible to achieve this set back as well as ensuring the two car parking spaces are of a sufficient size to comply with the SPD however, as the garage proposed to be retained does not meet current guidelines with regards to the internal measurements. Given the site demonstrates 2no. off street parking spaces to a satisfactory standard, it is considered unreasonable to require the set back space in front of the garage to be requested (and thereby cause a loss in 1no. off street parking space) when the garage does not contribute to the off street parking provision.

6.3.5 It is not considered appropriate or necessary to require the developer to provide details of arrangements for the collection of waste. The proposal is for 1no. residential dwelling and therefore it is considered the waste will be presented at the front of the property, adjacent to the public highway edge like the other properties within the street. If this is not the case, the developer will need to ensure the waste collection is presented at the correct location however this is not considered a reasonable requirement for one dwelling in an established residential area.

6.3.6 On the basis of the comments received, the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.4 Biodiversity, impact on protected species, enhancement and Trees

6.4.1 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”.

6.4.2 It is noted in the Outline officer report that the case officer considered the site to “*be unlikely to have any potential for protected species but to ensure the applicant is aware of the legislative requirements in terms of protected species an informative note will be added to any decision setting out the requirements of The Wildlife and Countryside Act 1981.*” The case officer noted that as a result of the “application site being fully hard surfaced with flat roofed garages” the biodiversity value was considered to be very low, if not nil and therefore considered an enhancement would be likely to be achievable through the incorporation of appropriate landscaping and integral bat boxes. A condition was therefore imposed on the outline consent which reads as follows;

“Prior to the development hereby permitted commencing above slab level, 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.”

6.4.3 It is considered the information provided on drawing no. 102/49 04 REV B is not sufficient to allow adequate assessment of the biodiversity enhancement

at the application site. This is due to the drawing not providing details with regards to the planting proposed, the implementation and maintenance of such, or details of any bird / bat roost boxes to be included within the scheme. It is noted that the reserved matters submission was required to include the landscaping of the application site (in accordance with condition 2 of consent CHE/21/00286/OUT).

6.4.4 The submitted drawing does however provide indication as to what parts of the site are to be hard landscaped and those which are to be soft landscaped, and this can be considered acceptable for this application. It is highlighted that further information with regards to the specific detailing of the hardsurfacing and plant species to be included at the application site is to be provided to this LPA. It is therefore considered reasonable to impose a planning condition that requires the submission of a soft and hard landscaping scheme which will be submitted prior to works progressing above damp proof course level. The details submitted should include precise details and specifications of all hardsurfacing to be used, as well as the species, number and size of plants to be included at the application site. The details should also include the number of and siting / locations of bird / bat roosting boxes to be included at the application site.

6.4.5 Subject to the development complying with the above recommended condition, the development is considered to comply with Local Plan policy CLP16.

6.5 Climate Change

6.5.1 Local Plan policy CLP13 (Managing the water cycle) states that “development proposals will be expected to demonstrate that water is available to support the development proposed and they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.”

6.5.2 Given the specific requirements of a planning condition to secure this through building regulations, a condition would normally be imposed on any decision granted however it is noted such a condition has been imposed on the outline decision and thereby the development will be bound by the requirements of Local Plan policy CLP13 through the outline consent.

6.6 Ground conditions and air quality

6.6.1 Having regard to Local Plan policy CLP14 (A Healthy Environment), the case officer reviewed the comments made by the Coal Authority in respect

of the outline planning permission (CHE/21/00286/OUT) and noted the Coal Authority requested a condition to be imposed on the outline consent for the undertaking of intrusive site investigations and remediation works to take place as necessary for land instability matters that arise from coal mining legacy.

- 6.6.2 Information regarding intrusive site investigations have not been submitted with this application and it is therefore considered the condition imposed on the Outline application remains outstanding. There is no requirement for the LPA to impose the condition on any positive decision issued in respect of this application as the applicant will need to comply with the condition imposed on the outline consent.
- 6.6.3 Similarly, the outline report imposed a condition which required the developer to install Electric Vehicle Charging provision at the application site to be made available for use by the residential development. This was imposed as recommended by the EHO in the outline consultation process. The **EHO** raised no objections to the proposed development set out in this application.
- 6.6.4 It is therefore considered, subject to the applicant complying with the coal mining legacy condition and EVCP condition imposed on the outline consent, CHE/21/00286/OUT, the development will comply with the relevant requirements of adopted Local Plan policy CLP14.

6.7 Drainage

- 6.7.1 Having regard to CLP13 (Managing the Water cycle) of the Local Plan, the application was referred to **Yorkshire Water Services (YWS)** and the Council's **Design Services (DS)** team for comments regarding the flood risk of the application site and drainage.
- 6.7.2 The **Design Services** team returned the following comments;
“The revised matters received are not drainage related; therefore, I would refer back to my original comments in the initial application, and in particular to the presence of the public sewer on the development site and trust this has been taken into consideration.”
- 6.7.3 During the outline application consultation process, the Design Services team returned comments that indicated the following;
“A combined public sewer is shown to cross the south western part of the plot. The developer should liaise with Yorkshire Water as to the proximity of this sewer, as a Building Over Agreement or easement may be required.”

The site should also be developed using separate systems of foul and surface water drainage.

Any connections to any public sewer would require prior approval from Yorkshire Water. Any amendments to existing drainage on site may require consent from Building Control.”

6.7.4 It is noted the comments regarding the need for the site to be developed with separate drainage systems have been imposed as a planning condition on the outline planning consent and the comments regarding a public sewer crossing part of the south west of the application site were included as an informative to the decision notice. It is for the applicant to ensure that the design put forward takes account of this feature within the site and allows sufficient easement. Subject to the development according with the conditions imposed on the decision notice in respect of the outline permission, it is considered the application of consideration here accords with the provisions of adopted Local Plan policy CLP13.

6.7.5 Yorkshire Water Services also responded to the consultation process noting that *“YW have no observation comments to make on this reserved matters application. Proposed foul and surface water drainage proposals can be dealt with via a future discharge of conditions application, in this instance 7 and 8 from the granted decision notice dated 22 June 2021.”*

6.7.6 It is therefore considered on the basis of the comments received from YWS that no concerns are raised from this consultee in respect of this application. The applicant is reminded of the need to comply with all conditions imposed on the previously granted outline planning permission.

6.8 Development Contributions and CIL Liability.

6.8.1 In April 2016, this LPA adopted a Community Infrastructure Levy (CIL) charge; all new dwellings are subject to this levy. The CIL tariff is separated into low, medium and high zones and this site is located within the medium zone. A charge therefore would be calculated on the medium zone rate of £50 per square metre (index linked).

6.8.2 The CIL charging figure has been calculated as below:

		A	B	C	D	E
Proposed floorspace (GIA in Sq. m)	Less existing (demolition or change of use (GIA in Sq. m)	Net Area (GIA in Sq. m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
107	15	92	£50	332	288	£5302.77

$$\frac{\text{Net Area (A)} \times \text{CIL Rate (B)} \times \text{BCIS Tender Price Index (at date of permission) (C)}}{\text{BCIS Tender Price Index (at date of charging schedule (D))}} = \text{CIL Charge (E)}$$

$$\frac{92 \times 50 \times 332}{288} = £5302.77$$

6.8.3 On the basis of the above, a CIL liability notice will be issued concurrent with the issuing of any decision granted.

7.0 REPRESENTATIONS

7.1 The application has been publicised for the minimum required time period and 3no. comments have been received from the same neighbour. The comments raise the following matters:

- Appropriate sun and daylight assessments have been carried out in line with Light and Proximity section of adopted SPD – **see section 6.2**
- Would the proposed have an adverse effect on the outlook from the rear windows and amenity space contrary to outlook section of Councils SPD
- Concerns for loss of light and restricted outlook from the rear of properties due to how dominant the two storey building will look from the rear of nos. 67 and 69 York St. – **see section 6.5**
- Amenity: minimum distance required from habitable windows of existing dwellings to the gable end of the proposed – **see section 6.2**

7.2 ***The representations received raise specific queries in respect of outlook, impact on light and the shading that may be caused by the development proposed however it is acknowledged that these matters (siting and scale) were addressed at outline stage as a result of the need to have appropriate limitations applied to the height and siting of the proposed dwelling. Notwithstanding this however, this reserved matters report has sought to ensure the appropriate appearance of the***

dwelling proposed as well as ensuring it complies with the agreed details at the outline stage.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 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
- 8.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 8.3 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.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

- 9.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of 2019 National Planning Policy Framework (NPPF).
- 9.2 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.
- 9.3 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.

10.0 CONCLUSION

- 10.1 The application is seeking consent for the appearance, layout and landscaping of the previously approved outline application for 1no. dwelling at the application site. Owing to the sensitive nature of the application site, the outline application had imposed restrictions in terms of the overall height of the dwelling to be sited at the site, as well as restricting the addition of windows to the rear (east) facing elevation at first floor level.
- 10.2 Overall, it is considered the proposal puts forward acceptable development on a site that is constrained as a result of existing neighbouring dwellings and land levels. It is considered the appearance of the proposed dwelling is acceptable in adopting a functional appearance which is different to the neighbouring dwellings which are typically terraced dwellings. The scheme does not give rise to substantial concerns that would cause this LPA to issue a refusal and given the principle of the development has already been accepted, as well as siting and scale details, it is considered the proposal adequately complies with the identified policies of the Local Plan and wider NPPF.

11.0 RECOMMENDATION

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

Conditions

1. 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).
 - Planning drawing plans, elevation and site plan – drawing ref. 102/49 – drawing no. 04, Rev B – Scale as indicated @ A1

***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. Prior to the ordering of external materials taking place, precise specifications or samples of the walling and roofing materials proposed 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 unless agreed by the Local Planning Authority in writing.

Reason – This condition is imposed to ensure the materials to be used are acceptable for the surrounding area and in accordance with Local Plan policy CLP20.

3. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscaping works for the approved development shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc) retained historic landscape features and proposal for restoration, where relevant. The required soft landscaping 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, or any implementation programme and a schedule of landscape maintenance for a minimum period of five years. These works shall be carried out as approved prior to the occupation of the dwelling hereby approved, or in the first planting season after agreement of the details, whichever is sooner.

Reason - This condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole and is in accordance with Local Plan policy CLP16 and CLP20.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. The 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 form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

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 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/government/organisations/the-coal-authority

4. Appropriate ecological/biodiversity enhancement measures shall include (but not limited to) the following;
 - bird/owl/bat boxes and details submitted shall include the number of units proposed, the location proposed, and a timescale for implementation

- biodiverse planting and landscaping including trees, hedges and native species and a programme of implementation and maintenance
 - wildflower planting and nectar rich planting for bees and night scented flowers for bats including a programme of implementation and maintenance
 - 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 to move across the site
 - bee brick
5. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
 6. Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – highways.hub@derbyshire.gov.uk The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
 7. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.
 8. The Highway Authority recommends that the first 5m of the modified access / driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to

the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.

9. There is a street lighting column on the site frontage, any necessary relocation of this and/or diversion/protection of Statutory Undertakers apparatus will be at the applicant's expense.