

ITEM 5**3 STOREY RESIDENTIAL BLOCK WITH ASSOCIATED PARKING AND ACCESS (REVISED PLANS RECEIVED 24/05/2022 AND 20/06/2022) AT AVENUE VILLA, 12A AVENUE ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8TA FOR DIGNUS HEALTHCARE**

Local Plan: Unallocated, within the built up area defined by Policy CLP3

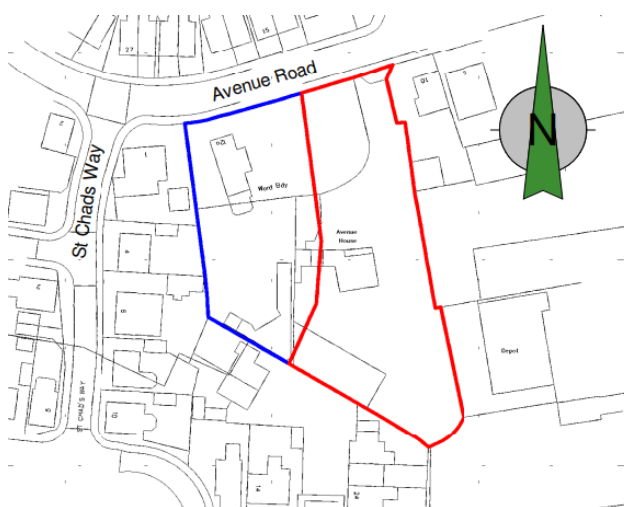
Ward: Dunston / Moor

1.0 CONSULTATIONS

Ward Members	No comments received.
Local Highways Authority	Comment received – see report
Design Services Drainage	Comment received – see report
The Coal Authority	Comment received – see report Conditions recommended.
Yorkshire Water	Comment received – see report Conditions recommended.
Derbyshire Constabulary	no objections in principle – see report.
Derbyshire Wildlife Trust	Comment received – see report
Strategic Planning	Comments received – see report
Environmental Health	no adverse comments to make however request a condition restricting the hours of building work at the site, and a condition regarding EV charging points in the car parking areas.
Representations	4 representations received – see report

2.0 THE SITE

- 2.1 The site subject of this application is situated on the south side of Avenue Road, adjacent to the recent development at St Chad's Way and to the rear of industrial and commercial uses fronting on to Sheffield Road. To the north are residential properties fronting Avenue Road and the entrance to the Lidl, to the east are residential properties along Avenue Road and commercial units fronting Sheffield Road, to the south and west are properties on St Chad's Way.
- 2.2 The site is in a sustainable location in walking distance to a range of services in Whittington Moor District Centre (the application site abuts the District Centre boundary) which contains a range of Key Services and is also a main route for a range of high frequency public transport routes. Part of the Strategic Cycle network is also close by, adjacent to the A61. The application site is within the defined Built up Area as defined by Policy CLP3 of the Chesterfield Local Plan and is unallocated on the Chesterfield Borough Council adopted local plan policies map 2018-2035.



Extract of submitted location plan ©



Aerial photograph taken from Google maps ©

- 2.3 As can be shown from the site plan above, the owners of the site have split the whole site into two, with a separate application being progressed for the remainder of the plot (CHE/21/00926/OUT). The application site plot is broadly rectangular in shape covering approximately 0.23 hectares in area (2300sqm). The prior use of the site was for residential with a number of residential buildings on site

and onsite landscaping. As a result of anti-social behaviour issues, the buildings on site were demolished and the site is currently level. The landscaping shown on the Google earth image above has been removed.



Photo taken from within the site looking north to Avenue

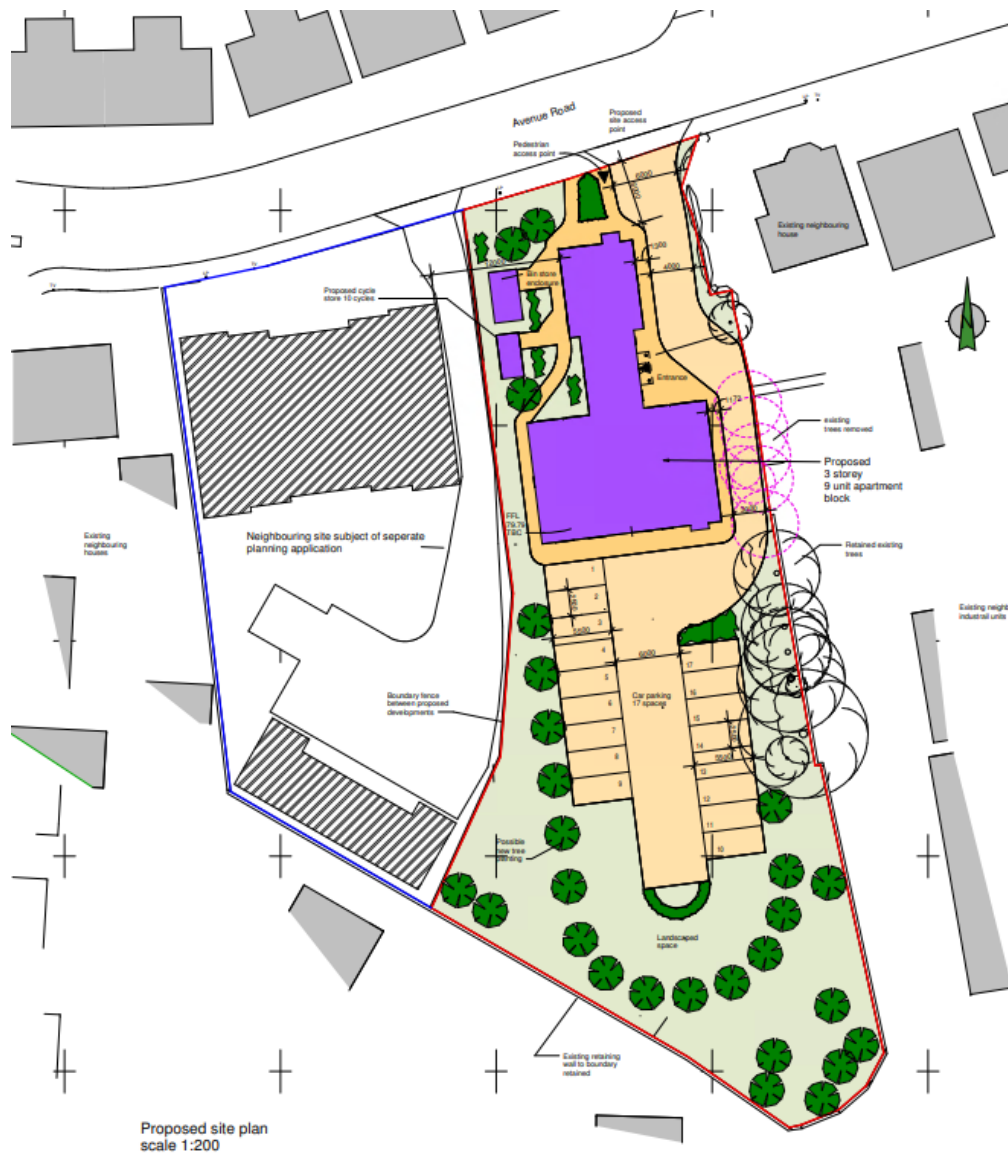


Photo taken from within the site looking east

3.0 **SITE HISTORY**

- 3.1 CHE/1085/0642 – Permission for the erection of dwelling
CONDITIONAL PERMISSION (19/11/1985)
- 3.2 CHE/0690/0452 – Single storey extension to form multi gym
bedroom sauna room and laundry room
CONDITIONAL PERMISSION (11/07/1990)
- 3.3 CHE/13/00453/FUL – Two storey extension
CONDITIONAL PERMISSION (12/09/2013)
- 3.4 CHE/21/00926/FUL – Erection of a new care home facility with
separate detached day units and creation of new access and
auxiliary car parking areas.
PENDING CONSIDERATION

4.0 **THE PROPOSAL**



- 4.1 The application seeks outline planning permission for a 3 storey 9 unit residential block with associated parking and access. The following matters are for determination under the outline application: access, layout and scale. All other matters are reserved.
- 4.2 The initial application submission included indicative elevational drawings and a 3D model for the building which were considered to be too detailed and inappropriate for an outline application. The scheme was therefore revised and the siting of the building amended to position it closer to the site frontage in line with other buildings along Avenue Road.
- 4.3 The proposal demonstrates development to the northern extent of the plot in an inverted 'T' shaped form with front landscaping, bin store enclosure, cycle storage, an access route to the east of the building which leads to a rear car park (space for 17 cars provided)

and rear landscaped garden. A separate pedestrian access is shown from Avenue Road.

4.4 The application form indicates that the proposal is for 9 residential units, 6 x 2 bedroom flats and 3 x 1 bedroom flats.

4.5 The application is supported by the following documents:

- Phase 1 Ground Investigation which includes a Coal Mining Risk Assessment (4th April 2022)
- Flood Risk Assessment which includes recommendations on drainage (1st April 2022)
- Biodiversity Offset and Mitigation Assessment (V3) (17 August 2022)
 - Biodiversity Calculation

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)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

- Part 2. Achieving sustainable development
- 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 **Principle of Development**

Relevant Policies

- 5.4.1 The application site is unallocated and is positioned within the built up area of Whittington Moor therefore policies CLP1 and CLP2 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 The principle of development is assessed through consideration of Local Plan Policies CLP1 and CLP2 (see extracts above).
- 5.4.5 The application site is previously developed land, within the settlement boundary, and sits adjacent to the boundary of the

Whittington Moor District Centre, which provides a range of key services and facilities and good public transport accessibility and connections to the strategic cycle network. The application will serve to bring a vacant and under-used site back into use and will help to provide additional residential accommodation within a sustainable location within the borough.

5.4.6 On this basis it is considered that that the principle of development is acceptable and in accordance with the Council's spatial strategy as established by policies CLP1 and CLP2 of the Chesterfield Local Plan.

5.6 Design and Appearance of the Proposal

Relevant Policies

5.6.1 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.'*

5.6.2 As the application is in outline, the only matter that can be considered at this stage is the scale of the proposal, which is detailed to be at 3 storeys.

5.6.3 The proposal for the building to the north end of the site will help to maintain the build line along Avenue Road, when coupled with the proposed adjacent development on the site subject of application (CHE/21/00926/FUL). This is considered to be appropriate in the site context given that Avenue Road presents a consistent building line travelling down the street with properties relatively close to the highway edge. The proposal will provide continuity to this which is considered to be appropriate.

5.6.4 Between the site frontage and where Avenue Road meets Sheffield Road, buildings have a more varied character and scale, with conversion of some buildings into flat accommodation apparent at this part of the street. The proposal for further flat accommodation in this context is therefore considered to be acceptable.

5.6.5 The proposed site plan demonstrates a narrower part of the building to the site frontage which will help to mitigate against the three

storey nature of the building within the street scene at this point, with the mass of the building sited further away from the street edge. The scale of the proposal is therefore considered to be acceptable.

- 5.6.6 The appearance of the proposal is a reserved matter and will be dealt with in detail within future applications for the scheme and will be subject to the design considerations as set out in Policy CLP20 and in the 'Successful Places' Residential Design Guide SPD.
- 5.6.7 Having consideration for the observations above the proposal is considered to be acceptable in terms of its scale and siting and therefore accord with the relevant provisions of Policy CLP20 of the Chesterfield Local Plan, with appearance being a reserved matter to be dealt with through future applications.

5.7 **Impact on Residential Amenity**

Relevant Policies

- 5.7.1 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*'
- 5.7.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'
- 5.7.3 The proposal will retain an acceptable separation distance between the proposed dwellings and surrounding residential dwellings opposite and which will be generally in line with the what currently exists along Avenue Road. To the west, the remainder of the application site is being considered under CHE/21/00926/FUL and the proposal retains adequate separation distance between the proposal on the adjacent site and the proposed siting of the residential block. Any measures to reduce or mitigate against overlooking impacts will be dealt with through future reserved matters applications.
- 5.7.4 To the east, the proposed building is separated from the residential block adjacent (10 Avenue Road) by the access route within the site which leads to the rear car park and by external space within the curtilage of 10 Avenue Road, with a separation distance of

approximately 12m, which is considered to be acceptable in a residential setting.

- 5.7.5 The site boundary to the west and south is an existing wall which is detailed on the plans to be retained, this is considered to provide adequate privacy to the surrounding residents. Beyond the southern boundary are residential properties. The residential block will be sited over 40m from the southern boundary which should help to mitigate against any risk of overlooking.
- 5.7.6 The Council's Environmental Health Officer reviewed the scheme and recommended a working hours condition to protect the residential amenity of the surrounding neighbours. It is recommended that this be secured by condition.
- 5.7.7 Having consideration for the observations above, based on the siting and orientation of the proposed development it is considered that the proposal will not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted. Subject to conditions regarding the window detailing to the proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.8 Highways Safety, Access, Parking Provision and Air Quality

Relevant Policies

- 5.8.1 Local Plan policy CLP20 expects development to 'g) provide adequate and safe vehicle access and parking and h)
- 5.8.2 Local Plan policy CLP22 details the requirements for vehicle/cycle parking
- 'The level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including in particular:*
- i. The size of any dwellings proposed.*
 - ii. The type, mix and use of the development.*
 - iii. The proximity of facilities such as schools, shops or employment*
 - iv. The availability of and capacity for safe on-street and public car parking in the area.*
 - v. Proximity to and availability of public transport and other sustainable transport options.*

- vi. *The likelihood that any existing on-street parking problems in terms of highway safety, congestion, pedestrian and cyclist accessibility and amenity will be made worse.*
- vii. *Local car ownership levels.*

5.8.3 The Council's Environmental Health Officer and the Strategic Planning Team have requested electric vehicle charging points be installed as part of the building phase in accordance with policy. This can be secured by condition.

5.8.4 The Local Highways Authority Derbyshire County Council has raised a number of issues on the scheme, as follows:

- Parking provision: The parking standards (see below and each measuring 2.4m x 4.8m) are required, so can you explain how the proposed figure of 7 spaces has been calculated? [Extract of 6Cs design guide provided detailing the following: One bedroom dwellings: 1 space per unit plus 1 space per 2 units for visitors, Two and three bedroom dwellings: 2 spaces per unit]
- Gated access: At present the access is gated, so can you inform the County Council if this gate will be removed or moved? This information is require to ensure the gate (if closed) does not impede the access and egress of all vehicles from the site.
- Pedestrian access provision: No separate pedestrian provision seems to have been provided as it looks like any pedestrians will have to access the site via the widened access road, so can you explain the rationale behind this decision? Do the proposals for the pedestrian / vehicle access involve the removal of the boundary wall and alteration of the existing dropped crossing?
- Refuse / resident / visitor vehicle turning: The site must show tracking using the largest operable vehicle (likely to be a refuse collection vehicle, fire tender and/or delivery vehicle) to demonstrate suitability. Tracking assessments shall always account for the potential for on-street parking, whether in dedicated facilities or just on-street. The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins and means of access including the removal of specialist waste. Suitability of the layout for use by a Large Refuse Vehicle of 11.6m length should be demonstrated by means of appropriate swept paths/turning head and tracking

assessments shall always account for the potential for on-street parking, whether in dedicated facilities or just on-street.

- 5.8.5 The Strategic Planning Team has requested that further detail is provided regarding the cycle storage facility to the front of the site (space for 10 bicycles) and it is considered that this can be secured by condition.

Parking Provision

- 5.8.6 The proposed site plan shows 17 no. car parking spaces for 3 x 1 bedroom and 6 x 2 bedroom dwellings. The proposed parking provision satisfies the recommended parking capacity within the site.

Pedestrian Access Provision

- 5.8.7 Revised designs have demonstrated the inclusion of a separate pedestrian access to the front of the site which is considered to be acceptable.

Refuse / resident / vehicle turning

- 5.8.8 The applicant's agent has confirmed that refuse collection is anticipated from the front of the site and the proposed site plan shows a bin storage area to the front. Further details on the appearance will be dealt with by future reserved matters applications and the proposed arrangements are considered to be satisfactory.
- 5.8.9 The proposed rear car park shows a parking layout of two rows of parking with 6m of separation distance down a central avenue which is sufficient for vehicles reversing. Car parking spaces are 5.5m x 2.5m. The proposed car parking layout is therefore considered to be acceptable.
- 5.8.10 The comments raised by the LHA are noted and have been sufficiently addressed above and through revisions to the proposed design of the scheme as appropriate. It is considered that there are no outstanding highway matters at this outline stage subject to the imposition of conditions as recommended by the LHA.
- 5.8.17 Subject to conditions as detailed above the development complies with the requirements of CLP20 and CLP22.

5.9 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.9.1 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.
- 5.9.2 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.
- 5.9.3 The Design Services (Drainage) Team reviewed the application and have requested further details regarding the proposed drainage arrangements based on the drainage hierarchy.
- 5.9.4 Yorkshire Water reviewed the application and raised no objections in principle however have requested further evidence regarding proposed drainage arrangements, subject to condition.
- 5.9.5 Conditions requested by Yorkshire Water are copied below;
1. *The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.*
(In the interest of satisfactory and sustainable drainage)
 2. *There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and*

approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- a. Evidence to demonstrate that surface water disposal via watercourse is not reasonably practical;*
- b. Evidence of existing drainage to public sewer and the current points of connection; and*
- c. The means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.*

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

5.9.6 The comments from Yorkshire Water and the Council's Design Services Drainage Team have been noted. It is recommended that conditions be imposed on the decision requiring further information on proposed drainage as detailed above.

5.9.7 Subject to the imposition of relevant conditions the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.10 Ground Conditions Land contamination and Land Stability

Relevant Policies

5.10.1 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.

- 5.10.2 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.'*
- 5.10.3 The application site is located in area considered to be at 'high risk' of former Coal Mining Legacy, therefore the application is supported by a Phase 1 Ground Investigation Study and Coal Mining Risk Assessment.
- 5.10.4 The Environmental Health Officer highlighted that the site is in an area which could be affected by historical land contamination and recommended that a phase 1 land contamination study and if required a phase 2 intrusive site investigation with a remediation strategy and validation report.
- 5.10.5 A Phase 1 Ground Investigation (4 April 2022) has been undertaken which makes a recommendation (page 33) that intrusive ground investigations targeted at providing detailed data to facilitate assessment of the identified geotechnical and contamination issues are carried out. The intrusive ground investigations should provide a remediation strategy for the site. The Phase 2 Intrusive Site Investigations are therefore recommended to be secured by condition.
- 5.10.6 The Coal Authority, upon review of the submitted Coal Mining Risk Assessment, have recommended the inclusion of conditions to establish further details of any mining legacy issues, as follows:
1. *No development shall commence until:*
 - a. A scheme of intrusive investigations has been carried out on site to establish the risk posed to the development by past coal mining activity; and*
 - b. Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy,*

as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)

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

(In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework)

5.10.7 Subject to the imposition of relevant conditions the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

5.11 Biodiversity and Landscaping

Relevant Policies

5.11.1 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'*

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

5.11.3 Following demolition of the residential buildings that occupied the site, the site has been levelled and existing landscaping removed. As noted above, the site has been split into two and is subject to two separate, but concurrent applications. Upon discussion with Strategic Planning, it was considered that biodiversity be considered

cumulatively across the whole site and addressed mutually by both schemes. This approach has been endorsed by Derbyshire Wildlife Trust.

- 5.11.4 On that basis, the applicant commissioned an ecologist to prepare a Biodiversity Offset and Mitigation Assessment (V3, 17 August 2022). The Biodiversity Impact Calculation (para 2.3) notes that the proposed development across the whole site results in a net loss in calculated biodiversity units of 0.45 habitat units. This decrease is primarily in habitat of low distinctiveness as the urban tree area has increased overall by retaining trees and adding new tree planting within the rear garden areas of the sites. On this basis it is considered reasonable to impose a condition to secure a scheme of biodiversity net gain.
- 5.11.5 Derbyshire Wildlife Trust has queried the assumptions within the biodiversity assessment and the use of the appropriate which have been further reviewed by the applicant's ecologist (CBE Consulting) and corrected as appropriate. The biodiversity assessment now uses the DEFRA Biodiversity Metric 3.1
- 5.11.6 The application is supported by a site layout plan but detailing on the landscaping, surface treatments and boundary treatments remains unconfirmed and is a reserved matter. In addition, the site would benefit from a formal boundary treatment to the site frontage to Avenue Road which would provide separation between public and private spaces and would provide screening to the proposed bin storage area to the site frontage.
- 5.11.7 On that basis, and to secure the appropriate biodiversity net gain measures, it is considered reasonable to impose conditions which require the provision of landscaping, biodiversity net gain measures and boundary treatments through subsequent reserved matters applications as appropriate.
- 5.12.8 Subject to conditions as recommended above the development accords with the requirements of CLP16 and the NPPF.

5.12 Developer Contributions

- 5.12.1 As the development involves the creation of new dwellings, the proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium CIL charging zone as set out in the

Council's Charing Schedule, which is currently charged at a rate of £57.64 per square meter of gross internal floorspace.

- 5.12.2 If approved, the applicant would be required to submit information at the reserved matters stage when a CIL Liability Notice would be issued.

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters and site notice. 4 representations have been received and are summarised below (see representations for full comments):

- 6.2 Comments received on initial submission raised the following concerns:

- Traffic congestion
- Overlooking & privacy
- Security
- Impact of planting on adjacent properties

- 6.3 Comments received on revised submission raised the following concerns:

- Overshadowing & loss of light
- Privacy
- Impact of loss of on site trees on wildlife and nature conservation
- Impact of scale and massing of the building

- 6.4 ***Officer comments – the above comments have been noted.***

- ***Traffic congestion: The proposed residential use of the site is an appropriate use of the site within a highly sustainable location. Sufficient parking is provided within the site boundary which will serve to minimise the risk of any spill out parking onto Avenue Road. Traffic levels along Avenue Road are not considered to be severely or unacceptably impacted by the proposed re-introduction of a residential use to the site.***
- ***Overlooking & privacy: The proposed building would not result in any substantial additional overlooking issues beyond what would be expected within a residential setting. Specific details of the design which would serve to mitigate***

against the risk of overlooking will be dealt with through subsequent reserved matters applications with bespoke solutions found as required.

- ***Security: The introduction of a residential use to the site is considered beneficial from a security perspective as re-development would prevent the continued use of the site as a location for anti-social behaviour.***
- ***Impact of planting on adjacent properties: Landscaping is a reserved matter and will be dealt with through subsequent reserved matters applications. Appropriate species selection is an important consideration which will be taken into account in due course.***
- ***Overshadowing and loss of light: The height of the building is considered to be acceptable in this context, the adjacent property sits across 3 storeys and therefore the proposed 3 storey block is not considered to be unacceptable or so significantly harmful as to warrant a refusal in this instance. The site is not immediately due south of any surrounding residential properties and therefore the overshadowing and loss of light impacts are considered to be minimal. The positioning of the building towards the front of the site in line with other properties on the street will help to ensure that impacts on adjacent properties are consistent with those found and accepted elsewhere in the locality.***
- ***Nature conservation: The application is subject to a requirement to deliver a net gain for biodiversity and the landscaping details to be provided within subsequent reserved matters applications will provide the precise details of proposed net gain measures.***
- ***Scale and massing: The scale and massing of the proposal is considered to be acceptable in this context, to be appropriate to the site and to the wider locality.***

6.5 The above comments are noted and considered to have been sufficiently considered and addressed within the report.

7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary

- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

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

9.0 CONCLUSION

9.1 The proposal is in outline form with access, layout and scale to be determined under this application with all other matters reserved. The proposed development is considered to be acceptable in principle and the proposed site layout, access arrangements and scale across 3-storeys are all considered to be in line with policy requirements as set out in the Chesterfield Local Plan and further material considerations established within the National Planning Policy Framework.

9.2 Subject to the imposition of conditions, the proposal is considered to be acceptable from a design, amenity, highway safety, access, drainage, land contamination, ground conditions and biodiversity perspective.

10.0 RECOMMENDATION

10.1

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

Conditions

Reserved matters submissions

1. Approval of the details of the landscaping and appearance of the proposal (hereinafter called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).

Time frame for reserved matters submission(s)

2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason – The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Time frame for commencement

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Approved plans and documents

4. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (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).

- Existing site plan, drawing no. 02A, 1:200 @ A1, (dated January 2022)
- Proposed Site Plan, drawing no. 03A, 1:200 @ A1 (dated 19/06/2021)

Reason - In order to clarify the extent of the planning permission for the avoidance of doubt.

Pre-commencement – Land contamination

5. Prior to the submission of a reserved matters application:
 - a) the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;

Prior to the commencement of development:

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

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

Pre-commencement – Coal Mining

6. Prior to the submission of the reserved matters application:
(a) A scheme of intrusive investigations shall be carried out on site to establish the risk posed to the development by past coal mining activity;

Prior to the commencement of development:

- (b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason – In order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Coal Mining

6. Prior to the development hereby being permitted being occupied or being brought into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason – In order to ensure the safety and stability of the development in accordance with paragraphs 183 and 184 of the National Planning Policy Framework

Hours of Construction

7. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and

1300 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

Reason - To safeguard the privacy and amenity of the occupiers of adjoining properties in accordance with CLP20 and CLP14

Drainage - surface water

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

Reason - To ensure that no surface water discharge takes place until proper provision has been made for its disposal and in the interests of sustainable drainage

Drainage – separate foul and surface

9. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason - In the interest of satisfactory and sustainable drainage and in accordance with CLP13

Water Efficiency

10. No individual dwelling unit approved as part of the reserved matters shall be occupied until the requirement for water

consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason – To protect the water environment and in accordance with policy CLP13 of the Chesterfield Local Plan

Biodiversity Net Gain

11. Concurrent with the submission of landscaping details as part of a reserved matters application, plans/drawings shall be submitted to the Local Planning Authority for approval in writing demonstrating the creation of a suitable habitat which enhances the ecological interest of the site with a maintenance plan, to achieve a Biodiversity Net Gain in line with guidance within the NPPF. (This shall include but not be limited to the planting of native shrubs and trees such as rowan, bird cherry, birch, guelder rose, dogwood, hazel, goat willow, alder buckthorn or fruit trees such as apple and pear, the incorporation of integrated bird boxes / terraces, small mammal measures such as hedgehog highways)

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

Landscaping

12. Within the reserved matters application a detailed landscaping plan shall be submitted to the Local Planning Authority for approval. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
 - a) a scaled plan showing trees and plants to be planted including species and planting density. The plan shall include indications of all existing trees, hedgerows and other vegetation on the land to be retained and detail measures for the protection of retained vegetation during the course of development, including details of ecologically beneficial landscaping to provide a biodiversity enhancement.
 - b) proposed hardstanding surfacing materials and shall include elevational drawings of boundary treatments including materials, types of fencing and treatment/colour.

- c) a schedule detailing sizes and numbers of all proposed trees/plants
- d) Sufficient specification to ensure successful establishment and survival of new planting.

Reason - In order to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to enhance its setting within the immediate locality in accordance with CLP16 of the Chesterfield Local Plan.

Retention of Soft Landscaping

13. The landscaping provided shall be retained and maintained as follows:
- a) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner;
 - b) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.
 - c) Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
 - d) All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Boundary Treatments

14. Concurrent with the submission of landscaping details as part of a reserved matters application full details of the boundary treatment to the northern boundary of the property adjacent to Avenue Road shall be submitted to and approved in writing by the local planning authority. The details which are subsequently agreed in writing shall be carried out as part of the development

and shall be completed prior to the development hereby agreed being first occupied / brought into beneficial use and shall be retained as such thereafter.

Reason - To ensure a satisfactory boundary treatment to the site in the interests of visual amenity in accordance with policy CLP20 of the Chesterfield Local Plan.

Access Road

15. Prior to any other operations being commenced the existing vehicular access onto Avenue Road shall be increased to 6 metres wide (in accordance with the approved plans), laid out (no steeper than 1:14), constructed and provided with pedestrian inter-visibility splays of 2m by 2m on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility above 0.6m shall be provided within the area of such splays. There shall be no gates or other barriers on the access / driveway.

Reason - To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

Electric Vehicle Charging Infrastructure

16. Electric Vehicle Charging Points (EVCPs) shall be provided for at least 2 no. car/van parking spaces together with passive provision to be made available for the remainder of the site so that spaces are capable of being readily converted to EVCPs in the future. The EVCPs shall be available for use concurrent with the first occupation of the building and which shall thereafter be retained and maintained operational for the lifetime of the development.

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

Cycle Parking

17. Concurrent with the submission of landscaping details as part of a reserved matters application, a scheme for secure cycle parking (10 racks) on the site shall be submitted to and approved

in writing by the Local Planning Authority. The cycle parking to be provided shall be secure, in an overlooked, lit location with protection from weather and shall be provided concurrent with the first occupation of the building and thereafter retained and maintained operational for the lifetime of the development.

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

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. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
3. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).
4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply

that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on.

6. It should be noted that where SUDS are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.
7. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp , e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
8. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with loose material (i.e. unbound chippings or gravel.) 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 householder.
9. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
10. 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.

11. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Mr J Adams, Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Council's website, relevant forms are available via the following link: <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx>

12. In accordance with the ecological/biodiversity enhancement condition 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.

Species	Potential Enhancement Measure	Notes
Wildflowers	<p>Native wildflower meadow areas: as an alternative to amenity grassland.</p> <p>Wildflower verges.</p>	<p>Wildflower meadow can be added where there is grassed verge / communal garden space as well as within residential gardens or as part of wider landscaping schemes.</p> <p>Advice for creating and maintaining a wild patch is available on the Wildlife Trust website and through Flora Locale.</p>
Birds	<p>Bird Boxes and other nesting features: (such as stone ledges and wooden cladding).</p> <p>Native species planting and boundary features: Berry</p>	<p>Particularly where adjoining natural areas such as woodland, areas of priority habitat and the river and canal environment. For guidance on installing bird boxes including minimum height see: https://www.bto.org/how-you-can-help/providing-birds/putting</p>

	<p>and seed producing shrubs are particularly beneficial for wildlife and include: Barberry, Blackthorn, Common Dogwood, Guelder Rose Hawthorn and Spindle berry.</p>	<p>nest-boxes-birds/putting-nest-box Generally, boxes should be sheltered from prevailing wind, rain and strong sunlight. Check local records (Magic portal and DWT advice) for target species.</p>
<p>Invertebrates</p>	<p>Bug hotels and log piles with stones: particularly near ponds. South facing banks: with some bare ground. Rough or natural stone walls with holes for invertebrates to use. Brown roofs with a range of substrates these are particularly recommended on brownfield sites where open mosaic habitat may have been lost. The substrate does not have to cover the entire roof.</p>	<p>Examples of living roof projects are available on the Buglife web page: https://www.buglife.org.uk/our-work/living-roof-projects/</p>