

Case Officer: Paul Staniforth File No: CHE/22/00362/FUL
Plot No: 2/734
Ctte Date: 19th September 2022

ITEM 1

Demolition of buildings used for commercial purposes and erection of 7 dwellings and conversion of out-buildings for use as home-working studios (in conjunction with the dwellings) and associated access/parking and landscaping at Handleywood Farm, Whittington Road, Barrow Hill. S43 2PW for Mr and Mrs B Steele.

Local Plan: Greenbelt
Ward: Barrow Hill & New Whittington

1.0 CONSULTATIONS

DCC Highways	Comments received 07/07/2022 – see report
DCC Archaeology	repeat of comment from 2019 - not consider that it will have any significant archaeological impact
Derbyshire Wildlife Trust	Comment received 18/08/2022 – see report
Environment Agency	No comment received
Coal Authority	comments received 23/06/2022, 15/07/2022 and 29/07/2022 – see report
CBC Design Services	06/07/2022 – comments received – see report

CBC Environmental Health	16/06/2022 – comments received - no objection – see report
Staveley Town Council	No comments received
Network Rail	Comments received on 29/06/2022. No objections in principle, recommends soundproofing
Yorkshire Water	Comments received 04/07/2022 – No objections
Ward Members	No comments received
Site Notice / Neighbours	No comments received

2.0 THE SITE

- 2.1 The site the subject of the application comprises of land within the curtilage of Handleywood Farm (which has recently been the subject of planning permission for a replacement farmhouse building that is under construction). The site is bound on the north by Staveley Footpath 2 which leads from the corner of Whittington Road on a west – east axis and to the south lies the railway freight line.
- 2.2 The overall farm complex, which in addition to the new and old farmhouse building, comprises of a cluster of barns, outbuildings and stables located predominantly in the western proportion of the site.



2.3 In the eastern proportion of the site there is an equestrian ménage and open fields. The site is served by an access track which follows the alignment of the public right of way linking through to Whittington Road.







2.4 The site has had an appreciable planning history, with an engine recovery business still operating from within the site.

3.0 **RELEVANT SITE HISTORY**

Previous Site History - Outbuildings

- 3.1.1 CHE/19/00102/FUL - Demolition of buildings used for commercial purposes and erection of 7 dwellings, access and landscaping. Approved conditionally 2nd July 2019
- 3.1.2 CHE/16/00023/FUL - Demolition of buildings used for commercial purposes and erection of 5 dwellings, access and landscaping. Approved conditionally 10th August 2016
- 3.1.3 CHE/10/00162/EOT - Extension of time of CHE/07/00198/COU for change of use of buildings for B8 storage and B2 industrial use. Approved conditionally 1st September 2010.
- 3.1.4 CHE/09/00665/EOT - Extension to the time limit for carrying out the alterations to the vehicular access to the highway (CHE/06/00669/FUL). Approved conditionally 7th December 2009.
- 3.1.5 CHE/09/00179/DOC - Discharge of condition 5 of planning application CHE/07/00198/COU. Approved 18th May 2009.
- 3.1.6 CHE/07/00198/COU – Use of buildings for storage (B8) an industrial use (B2). Approved conditionally 30th May 2007 – conditions concerning landscaping, outside storage and parking.
- 3.1.7 CHE/06/00669/FUL – Alterations of vehicular access to highway. Approved conditionally 26th October 2006.
- 3.1.8 CHE/04/00827/COU – Retrospective application for retention of use of buildings for storage (B8) and Industrial Use (B1 and B2). Refused 17th December 2004.

Appealed under PINS Ref. - APP/A1015/A/05/1172927 and dismissed.

Previous Site History - Enforcement Action

3.2.1

Enforcement Notice (1) under Section 171A(1) of the T&CP Act 1990 (as amended by the Planning and Compensation Act 1991) in respect of land at Handley Wood Farm.

Breach of Planning Control: Without planning permission change of use of the land from agricultural use to use for vehicles and vehicle parts processing and storage.

Steps to be taken: (1) Cease the use of the land for the importation storage and processing of vehicles and vehicle parts other than as ancillary to the agricultural use of the land. (2) Remove permanently from the land all part dismantled and stored vehicles and vehicle parts other than those ancillary to the agricultural use of the land.

Time for compliance: 9 months after the notice takes effect. The notice took effect on the 19th November 2004 unless an appeal was made against it beforehand.

Notice dated: 20th October 2004. Appeal received.

NB: Inspector's Decision Letter dated 25th May 2005: Notice upheld on the basis of risk to highway safety from substandard access however the inspector considered the use and the impact on the green belt was no more than compared with the lawful use of the site for agriculture.

Enforcement Notice (2) under Section 171A(1) of the T&CP Act 1990 (as amended by the Planning and Compensation Act 1991) in respect of land at Handley Wood Farm Whittington Road Barrow Hill Chesterfield.

Breach of Planning Control: Without planning permission the erection of a portal frame building shown edged blue on the plan.

Steps to be taken: Dismantle and remove the portal frame building from the land.

Time for compliance: 6 months after the notice took effect. This notice took effect on the 19th November 2004 unless an appeal

was made against it beforehand. Notice dated: 20th October 2004. Appeal received.

NB: Inspector's Decision Letter 25th May 2005: Notice quashed by the Inspector.

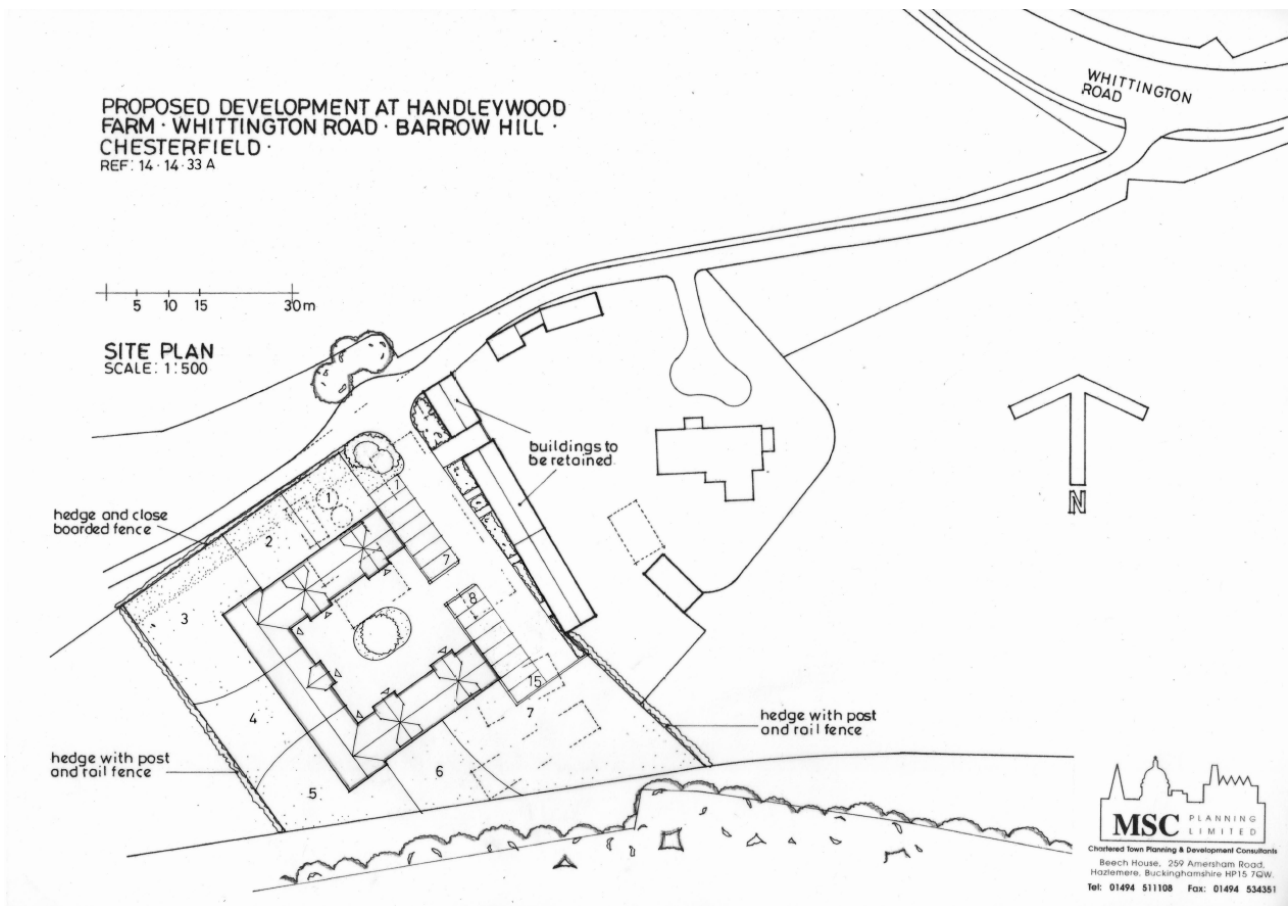
Previous Site History - Farmhouse

- 3.3.1 CHE/11/00611/FUL - Demolition of existing building and erection of replacement dwelling - supporting information received 19/12/2011 (Bat Survey & Materials Samples). Approved conditionally 22nd December 2011.
- 3.3.2 CHE/09/00646/NMA – To extend the width of the approved dwelling by 1 metre on each side (application CHE/08/00592/FUL). Granted 3rd November 2009.
- 3.3.3 CHE/08/00592/FUL – Demolition of existing dwelling and erection of replacement dwelling. Conditional permission granted 9th December 2008.
- 3.3.4 CHE/06/00901/FUL – Construction of a ménage. Approved conditionally 17th January 2007.

4.0 **THE PROPOSAL**

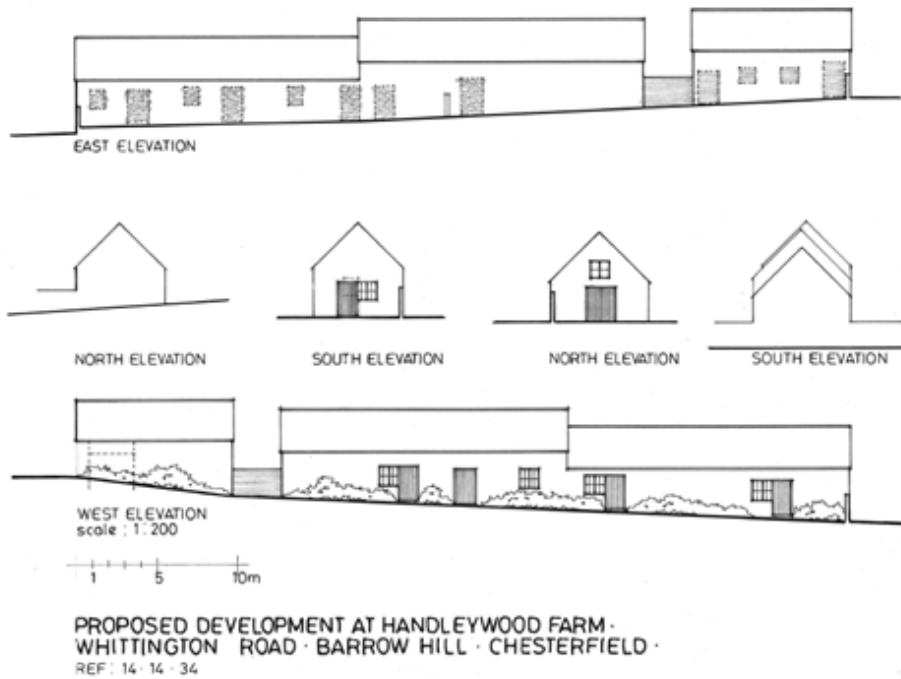
- 4.1 The application, which is submitted in full, is a resubmission of the 2019 scheme now lapsed and proposes the erection of 7 new dwellings on land at Handleywood Farm which lies in the western proportion of the site. Currently there are a number of barns, stables and outbuildings to the west of the original and new farmhouse buildings which are subject to be cleared / demolished and/or be re-used as part of the development proposals.

Proposed Site Layout



- 4.2 The proposed site layout details development in a new courtyard arrangement which comprises of three new blocks of development arranged north, west and south of the central courtyard which is enclosed on the eastern edge by the existing 3 no. barns shown on the proposals plan to be retained and converted to studio's and a bin / bike store.

Alteration of Stables to Studios

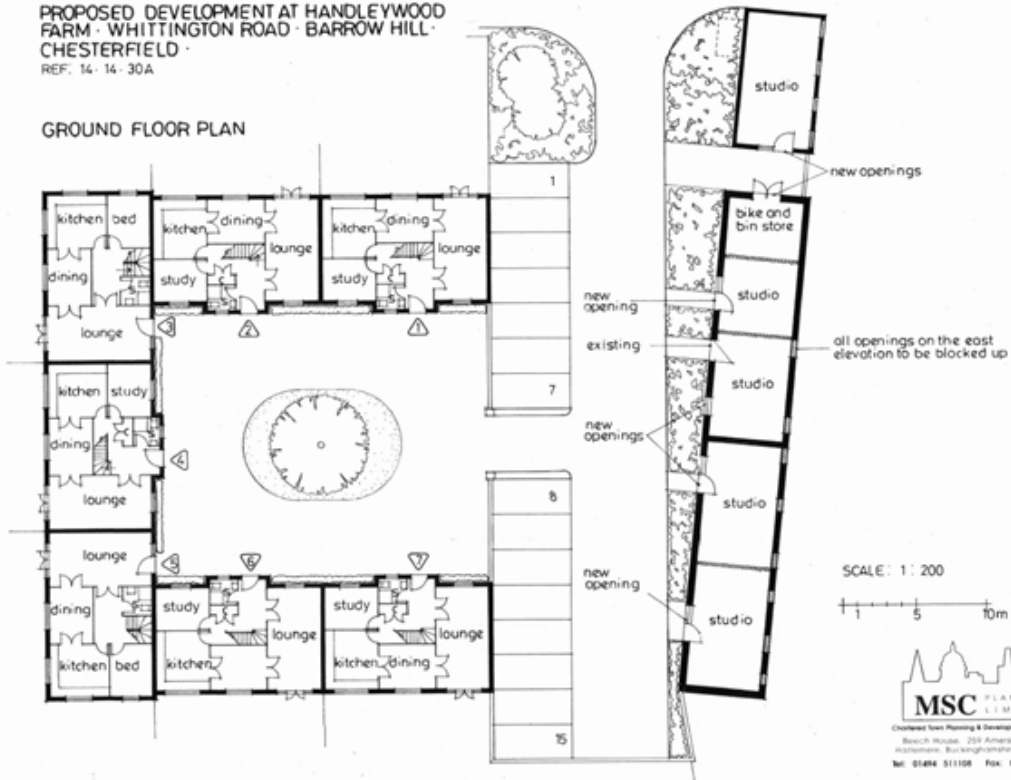


- 4.3 The 7 no. new dwellings will be accommodated exclusively in the new block of development which is one and half storey in scale and includes rooms in the roof space. A series of dormer windows positioned in the internal and external roof slopes to first floor accommodation are proposed. 6 no. three-bedroom properties and 1 no. four bedroom property are illustrated. A feature tree is shown to be located centrally in the courtyard area and 2 no. parking spaces will be provided per dwelling and 3 for the 4 bedroomed unit.

Proposed Floor Plans and Elevations

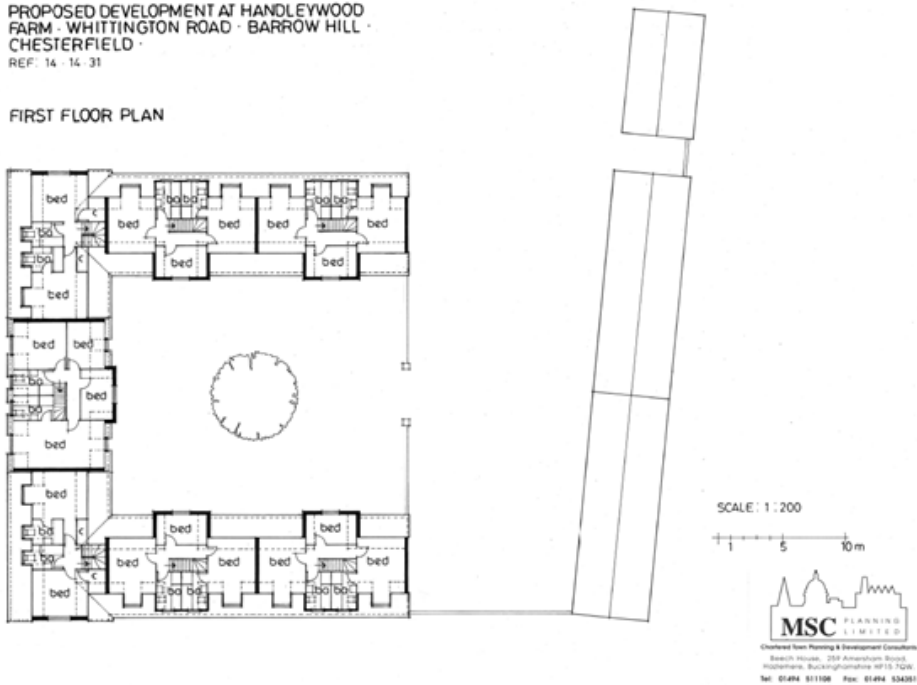
PROPOSED DEVELOPMENT AT HANDLEYWOOD FARM · WHITTINGTON ROAD · BARROW HILL · CHESTERFIELD ·
REF. 14-14-30A

GROUND FLOOR PLAN



PROPOSED DEVELOPMENT AT HANDLEYWOOD FARM · WHITTINGTON ROAD · BARROW HILL · CHESTERFIELD ·
REF. 14-14-31

FIRST FLOOR PLAN





- 4.4 The application submission is supported by the following documents:
- Coal Report dated 26th July 2022
 - Preliminary Bat Roost Assessment dated 7th June 2022 by Estrada Ecology Ltd.
 - Bat Activity Survey Report dated 7th June 2022 by Estrada Ecology Ltd.
 - Bat and Breeding Bird Survey Report dated June 2016 by Estrada Ecology Ltd.

- 4.5 The applicant has stated that the application seeks a repeat of the 2019 permission and the arguments applied at the time remain appropriate -
- The application proposes to remove the commercial operations and buildings at Handleywood Farm and replacement with new dwellings as part of the site owners retirement plan.
 - The scheme continues to be for 7 units - The 5 dwelling scheme was not viable as supported by a report in 2019 from Wilkins Vardy concluding that the 5 unit scheme was not viable due to the size of the units, which should be reduced in floorspace – accordingly the scheme was increased in 2019 to 7 dwellings

being smaller units, on a slightly smaller footprint than previously agreed in 2016.

- The substitution of one scheme for another raises no policy issues from the change in number of dwellings and enhances green belt policy.
- The 2 extra dwellings makes no material change to the approved scheme and the siting/design/materials and landscape remain the same.
- The parking has been changed to reflect the changed number of units.

5.0 **CONSIDERATIONS**

5.1 **Development Plan 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 and the following policies are material.

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP3 Flexibility in Delivery of Housing
- 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

5.1.2 The following sections of the NPPF are also of relevance to the proposal

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 8. Promoting healthy and safe communities
- Part 12. Achieving well-designed places

- Part 13. Protecting Green Belt land
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

5.1.3 In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development**

5.2.1 Regardless of the previous/existing use, the site is in the Green Belt and as such the proposal for new residential development would be considered on face value to be inappropriate development. The key policy consideration therefore would be whether the proposal meets any of the exceptions set out in paragraph 149 of the NPPF and the following parts of para 149 have particular relevance to this proposal:

- (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

It is considered that the proposal could fall within the scope of part (g) as the site is regarded as previously developed land.

5.2.2 Currently the use taking place at the site, which is authorised, is not considered compatible with the Green Belt designation as there are cars and other associated paraphernalia stored in the open and around the site. The site resembles a scrap yard however it is an established use. The main issue is therefore whether the proposed development, would have any greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development / use operating on the site. The conclusion reached in 2019 was that the development of the 7 units as proposed was appropriate and was accepted.

5.2.3 Paragraph 137 of the NPPF emphasises the importance of the openness and permanence of the Green Belt. Although the proposed development is broadly within the footprint of an area of previously developed land, the existing buildings are a mix of agricultural and commercial in nature. This is despite the uses within the agricultural type buildings not being agricultural uses. The former agricultural character of buildings provides a sense of openness in terms of giving the appearance of a farm within the open countryside area. The re-development of the site for housing could therefore have a more significant impact on the sense of openness of that area of the Green Belt. The design features which incorporate a courtyard layout and single storey units with dormers does however offer a design that is in keeping with a traditional farm character, but the proposal is never the less significant, involving 7 new dwellings with associated studio space in the existing stone outbuildings.

5.2.4 The five purposes of the Green Belt are set out in paragraph 138 of the NPPF:

- To check the unrestricted sprawl of large built-up areas
- To prevent neighbouring towns merging into one another
- To assist in safeguarding the countryside from encroachment
- To preserve the setting and special character of historic towns

- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

- 5.2.5 It is considered that whilst the proposal does have a greater impact on the Green Belt (particularly the first three bullet points) than the existing uses and buildings, it is clear that residential uses are different in nature, traffic generation and appearance to the existing uses. This must be balanced with the opportunity to secure enhancements, to boost the supply of new housing and to remove an inappropriate and visually harmful use from the Green Belt especially when viewed from the Public Right of Way (PROW) which passes alongside the site. It is also significant that the same building mass and scheme has already been accepted and is therefore considered that this should carry weight in the application of the tilted balance in this case.
- 5.2.6 Policy CLP1 states that the existing Green Belt will be maintained and enhanced. Considerations regarding the Green Belt are dealt with above however in terms of new housing, policy CLP2 seeks to focus new development within walking and cycling distance of centres and at regeneration priority areas. The site is not within a regeneration area.
- 5.2.7 The site is around a mile (20 minutes walking distance) of the local centre at New Whittington, along Whittington Road. There is a more direct route along the old Staveley Road highway (PROW) which runs past the site. In this respect the proposal generally accords with policy CLP2, and although Whittington Road is not lit, there is a pavement.
- 5.2.8 Policy CS2 additionally states that:
In assessing planning applications for developments that are not allocated, sites will be assessed by the extent to which the proposals meet the following requirements:
a) deliver the council's Spatial Strategy
b) are on previously developed land that is not of high environmental value;

c) deliver wider regeneration and sustainability benefits to the area; It is considered that the proposal does not conflict with the broad requirements of policy CLP2.

- 5.2.9 The 2016 planning permission for the erection of 5 dwellings, was acceptable within the greenbelt for the “very special circumstances” and reasons given, and this permission established the principle of re-developing the green belt site for housing purposes. In 2019 the key issue was whether the change to the number of units (5 to 7) and the modest increase in parking, would fundamentally change the impact on the open-ness of the green belt, such that the previously established “very special circumstances” no longer applied.
- 5.2.10 The 7 dwellings proposed have previously and recently been accepted and it is considered that there would be no additional impact on the open-ness of the green belt arising from the scheme compared to that agreed in 2019. The only changes since the 2019 scheme was accepted are the adoption of the new local plan and the introduction of the 2021 NPPF. Notwithstanding such changes the policies and guidance contained therein have not changed and do not in any way result in a material change to the way in which the current planning application should be considered.
- 5.2.11 It is considered that the very special circumstances for allowing inappropriate development in the green belt still applies to the current planning application now proposed. Whilst the Council is in a position where it can demonstrate a 5 year supply of housing, there remains the wider principles of the NPPF to significantly boost housing land supply. In respect of this site and the history associated with the site with the use taking place, it is considered that the opportunity to dissolve or relocate this use to an area which is more appropriate to its B2 classification should still be taken. Consideration has been given as to whether removal of the existing engine salvage use on the site should be required by formal agreement however it is considered that this is not

necessary in this case because the implementation of the scheme for the new residential development affects the same parcel of land and will necessitate the closure of the existing use and removal of all the vehicles and paraphernalia from the land. The vehicles which are present on the adjoining fields outside of the established business area are unauthorised and their removal could be enforced if necessary. Clearly the retention in any way of the existing poor appearance of the site arising from the existing use of the land would be a contributing factor in the value of the properties and the attractiveness of the properties to potential intending purchasers. The applicants agent has commented that it is the applicants intention to cease work and sell the site for the execution of the planning permission (if granted) and a corollary of which will be the clearance of all the vehicles, vehicle parts and associated materiel from the site and the cessation of the activity. He comments that this would be prudent in any event, so as to secure the best value for the site. He also comments that whilst not covered in the earlier planning permission, this may be something the Council may wish to consider by way of a suitably worded planning condition. It is not considered that an agreement is necessary in this case however the opportunity to secure removal of the business use can be secured by condition as imposed on the previous permission issued in 2019 (cond 18). There is no doubt that some of the buildings on site are dilapidated and the open storage of vehicles, vehicle parts and other paraphernalia detracts from the character and appearance of the area. It is considered that the development proposals provide an opportunity to secure redevelopment of the site in a sympathetic and viable scale which would ultimately provide enhancement to the area, whilst contributing to the much needed housing supply. On balance therefore whilst it is accepted that the development could have a minor adverse impact upon the Green Belt by virtue of its scale and character and parking, but it is by no means considered so significantly harmful that this outweighs the benefits highlighted above. It is therefore considered that the principle of development can be accepted in this case.

5.3 **Design and Appearance Considerations**

- 5.3.1 The design, scale and appearance of the development proposals are considered to be appropriate. The one and half storey scale and courtyard arrangement is typical of rural setting residential led redevelopment proposals and this is considered to be acceptable alongside the re-use of the barns /outbuildings to the east of the new development footprint.
- 5.3.2 It will be important to ensure that appropriate materials and finishes are chosen, alongside soft and hard landscaping surrounding the development footprint to ensure that the scheme reflects local character and is quickly embedded into the open countryside/green belt. Appropriate conditions for approval of materials and hard / soft landscaping can be imposed.
- 5.3.3 Overall it is considered that in the context of the provisions of policies CLP2 and CLP20 of the local plan the proposals are appropriately sited, scaled and designed. Notwithstanding this however, it would be undesirable given the overriding Green Belt designation in the area that these properties benefit from permitted development right freedoms as this poses potential for extensions to result in sprawl and ad hoc additions which would erode the character established by the development design / footprint. Permitted development freedoms for extensions and additional window openings should therefore be removed by condition.
- 5.3.4 Policy CLP13 of the local plan states that development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day. Such a condition can be imposed as part of any permission issued.

5.4 **Neighbouring Impact / Amenity**

- 5.4.1 The site the subject of the application sits in relative isolation, with the farmhouse of Handleywood Farm itself being the only boundary sharing neighbour to the proposed development. The occupants of this building are the applicants in this case.
- 5.4.2 Having regard to the siting and orientation relationship of the scheme to the replacement farmhouse it is not considered that the development will impose any adverse amenity impacts upon the closest neighbouring property.
- 5.4.3 Having regard to the neighbouring relationship created as a result of the development proposals it is accepted that the courtyard arrangement of the 7 no. dwellings is based around a 20m x 20m space which means separation distances generally accord with the guidance in the Council's Successful Places SPD. The relationship created by the courtyard arrangement is not unusual for a rural development of this nature and the distance is acceptable.
- 5.4.4 In the context of the provisions of Policy CLP20 of the local plan and the material planning considerations in relation to neighbour impact, it is concluded the proposals will not impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies.

5.5 **Ecology / Biodiversity**

- 5.5.1 Having regard to the nature of the application site and the development proposals it is accepted that there would be loss of outbuildings located in a rural setting. Due to their condition these buildings pose suitable habitat for nesting birds and bats and following the consultation in 2016 with **Derbyshire Wildlife Trust (DWT)** it was concluded that a bat and bird survey of the buildings was necessary.
- 5.5.2 Accordingly appropriate surveys were undertaken by Estrada Ecology and a Bat and Bird Survey Report was submitted in relation to the earlier scheme and these documents have been

updated as part of the current submission. The updated surveys confirm no roosting bats or nesting birds were present.

DWT has commented as follows:-

“We have reviewed the Bat Activity Survey Report (Estrada Ecology, June 2022). No bat roosts were identified during historic surveys (2010 and 2016) or the single update survey undertaken in 2022 by Estrada Ecology. No further work or licensing is recommended. We advise that sufficient information has been provided to enable the LPA to determine the application. We advise that the following conditions are attached, in line with our responses to previous applications: Nesting Birds No stripping or demolition of any buildings or tree/shrub removal shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present. Biodiversity Mitigation and Enhancement Plan Prior to building works commencing above foundation level, a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority, to ensure no net loss of nesting and roosting opportunities on site, plus additional enhancements. Such approved measures should be implemented in full and maintained thereafter. Measures shall include (but are not limited to):

- one integral nest brick per dwelling, as per British Standard 42021:2022 (positions/specification/numbers).*
- at least three integral or external bat boxes on new dwellings or the converted stables (positions/specification/numbers).*
- at least three house martin nests located close together on a suitable building(s) (positions/specification/numbers).*
- hedgehog gaps in garden fencing (130 mm x 130 mm).*
- summary of ecologically beneficial landscaping (including replacement tree planting and proposed hedgerows). Lighting Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by*

the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. The location of luminaires should consider locations of bat boxes. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.”

- 5.5.3 On the basis of the comments received above it is considered that the loss of the out buildings is acceptable. An appropriate planning condition can be imposed on any subsequent decision notice to ensure demolition of the out buildings takes place outside of bird breeding / nesting season, unless it is first confirmed by an appropriately certified ecologist that any abandoned nests are not being used. Overall it is considered that a biodiversity gain (policy CLP16 of the local plan) can be secured by an appropriately detailed soft landscaping scheme being provided within and surrounding the development site to ensure that any temporary disturbance to biodiversity/habitat is subsequently compensated / enhanced.

5.6 **Highways Issues**

- 5.6.1 The application submission proposes the development to be served from the existing access taken from the corner of Whittington Road which serves both the farmhouse and the current business use located on site. As part of previous planning permissions (see site history above) improvements were undertaken within highway limits to create a right turn harbourage from Whittington Road into the existing site access.
- 5.6.2 The **Local Highways Authority (LHA)** has reviewed the application proposals and has commented that the scheme is an identical submission to that from 2019 and no objection is therefore raised to the current application provided the same conditions as in 2019 are reimposed. The Highway Authority also pointed out that there is a Public Right of Way – Footpath 2 on the Definitive Map -

that passes the site and that they would not wish to see this route obstructed by vehicles or the safety of users of the route prejudiced either before, during or after any development that might take place.

5.6.3 The scheme provides for an appropriate level of parking provision at 15 spaces for 7 units and which complies with the guidance and it is considered that any opposition to the scheme based on parking limitations would be unfounded. Furthermore the N.P.P.F indicates that permission should only be refused on highway safety grounds where the resulting cumulative impacts are severe. It is also the case that opportunities arise to safeguard the definitive route through the site which is currently obstructed by numerous vehicles parked alongside the access track and which would be removed as part of the scheme.

5.6.4 The LHA conditions imposed in 2019 secure a construction site management strategy (inc. wheel wash), further details of the driveway / public right of way resurfacing and works to create passing places, pedestrian intervisibility to the access, parking to be provided and maintained prior to occupation, and details of bin store / bin collection arrangements and dwell area to be provided. It is considered that all of these details can be re-imposed and secured by appropriate planning conditions in the interests of highway safety such that the development is overall acceptable having regard to highways impacts / parking as required under policy CLP20 of the local plan.

5.7 **Drainage / Flood Risk**

5.7.1 In respect of matters of drainage and potential flood risk (having regard to policy CLP13), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from any flooding. In respect of drainage, the application details that the development is to be connected to a package treatment plant for foul drainage and a sustainable drainage system to handle surface water.

- 5.7.2 Both the Councils **Design Services (DS)** team and **Yorkshire Water Services (YWS)** have been consulted on the application proposals, and YWS have not objected as the proposals do not include connection to any mains sewers. The DS team have requested that drainage details of how the applicant intends to dispose of surface water. They have indicated that a sustainable drainage system will be used, more precise details of which will be necessary.
- 5.7.3 An appropriate planning condition can be imposed on any decision issued to ensure more detailed drainage details are submitted for further consideration and approval. The use of a package treatment system for foul water disposal will need separate building regulations approval and is only acceptable if mains drainage is not available, however given the isolated location of the site, there are no mains drainage available within the normal expected travel distance and a treatment plant is therefore justified.
- 5.7.4 Given the scale of the development proposals (minor application) the **Lead Local Flood Authority** have not commented on the application and the Environment Agency raises no objections.

5.8 Land Condition / Contamination / Noise

- 5.8.1 The site the subject of the application is currently a combination of previously developed land /open land and former agricultural buildings and therefore land condition and contamination need to be considered having regard to policy CLP14 of the Local plan.
- 5.8.2 The Council's **Environmental Health Officer (EHO)** has reviewed the proposals and commented that due to the previous land use a phase I desk top study should be requested as before. The EHO is aware that gas protection measures were required to be installed at the adjacent dwelling due to the presence of coal mining in the area and therefore this will need to be considered

following appropriate ground investigations. The EHO comments that the previously imposed conditions should be re-imposed.

5.8.3 Like the majority of sites within the Borough, the land is affected by the coal mining legacy and the site is part of the referral area to which the Coal Authority comments are necessary. Like the previous applications in 2016 and 2019 the Coal Authority has objected to the application submission, due to the absence of an accompanying Coal Mining Risk Assessment (CMRA). In response the applicant has provided an updated report covering the specific application site however the report is a CON29M coal mining report and does not deal with the Risk Assessment side of working on a site where there will be unknowns in respect of the coal mining legacy

5.8.4 In relation to the previous applications, the applicant /agent confirmed that given the content of the report, that getting a coal mining risk assessment prepared would be abortive as they would still have to undertake intrusive site investigations to identify the likely unrecorded mining legacy. The applicant comments that there are a number of particular points which arise from the submitted report as follows:

- There are no further reports from the Coal Authority required
- The property is not within an area that could be affected by any past recorded underground coal mining.
- There may be potential workings at or close to the surface and these should be considered prior to site works.
- There is no present underground mining
- There is no planned future or licenced underground mining
- There is no damage due to geological faults or lines of weakness
- The site is not within a former opencast site
- The site is not within 200m of a current opencast mine
- There are no licences granted for opencast mining within 800m of the site
- There is no record of any damage notice within 50m of the boundary since October 1994.

- There is no record of any mine gas emissions

On this basis, the applicant comments that any reasonable reading of the report would conclude that the risk from either prior or future coal mining is minimal. However, whilst this may be the case, we would suggest, as previously, that a precautionary condition be placed on the planning permission (the same wording as previously) which would deal with any unforeseen issue that may result from the development. In the light of the limited area of development this is likely to be unlikely in any event. In this regard the applicant considers the requirement for a full Coal Mining Risk Assessment to be unwarranted and costly for what is being sought.

5.8.5 The Coal Authority confirm that the submission does not provide an assessment of the risks and so the maintain their objection however the applicant should use the coal mining information to assess whether or not past mining activity poses any risk to their development proposal and, where necessary, propose mitigation measures to address any issues of land instability. This could include further intrusive site investigation, which the Coal Authority confirm would not be opposed to being required by condition, to ensure that the LPA has sufficient information to determine the planning application. Whilst the Council usually insist upon a CMRA being submitted, given the site history and the existing knowledge of development conditions for the new farmhouse adjacent, it was previously considered that the applicants / agents request is reasonable and intrusive site investigations should be conditioned. The same considerations apply equally to the current proposals and it is recommended that pre development site investigations should be imposed as a condition requirement of any consent granted.

5.9 **Community Infrastructure Levy (CIL)**

5.9.1 Having regard to the nature of the application proposals the development comprises the creation of 7 no. new dwellings and the development is therefore CIL Liable.

5.9.2 It is noted that the application proposals include the demolition of some existing buildings and also conversion of existing barns that are illustrated on the proposed plans to be re-used as studios for each dwelling and the bin / bike store. There are exemptions whereby the footprint of the existing buildings can be deducted from the CIL liability calculation if it can be demonstrated that they have been used for a period of 6 months during the last 3 years. The applicant / agent have not provided details of the footprint of the buildings to be demolished to date and therefore they have not been taken into account in the calculation below. If floor space details are provided the CIL liability can be adjusted in due course.

5.9.3 The site the subject of the application lies within the medium CIL zone and therefore the CIL liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

		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
1173	0	1173	£50 (Medium Zone)	332	288	£67,610

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

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 16th June 2022 and by advertisement placed in the local press on 30th June and 28th July 2022. As a result of the application publicity there have been no letters of representation received.

7.0 **HUMAN RIGHTS ACT 1998**

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

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

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

8.1 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 paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development conflicts with the NPPF or with 'up-to-date' Development Plan policies, the merits of the case outweighed the policy objections and on balance, 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. The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation.

9.0 **CONCLUSION**

- 9.1 In principle a new residential development constitutes inappropriate development that does not generally accord with Green Belt policy. However in relation to the previously approved scheme, it has been concluded that the very special circumstances in the case suggest that the proposal could fall under the exceptions set out in paragraph 149 of the NPPF. Although the proposal does have a potential greater impact on the purposes of the Green Belt (particularly the first three bullet points) than the existing uses and buildings, this must be balanced with the significant potential tidying of the site and removal of the engine salvage business from the site and the opportunity to secure enhancements as well as providing new homes, to boost the 5 year supply of land for housing.
- 9.2 The proposal is a re – run of the same scheme which was accepted in 2019 and the new material changes since that date (new local plan and NPPF) have not changed the considerations and weight which can be applied such that the previously agreed principles still apply. Given the position above the Council has considered the proposals the subject of the application against all remaining up to date development plan policies, the wider National Planning Policy Framework (NPPF) and the Councils Supplementary Planning Document on Housing Layout and Design ‘Successful Places’.
- 9.3 The application submission is supported by assessment and reports which illustrate the proposed developments ability to comply with the provisions of policies of the local plan and where necessary it is considered that any outstanding issues can be

mitigated and addressed in any subsequent reserved matters submission or any appropriate planning conditions being imposed.

10.0 **RECOMMENDATION**

10.1 That the application be **GRANTED** subject to the following conditions / notes:

Conditions

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004.

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Drawing Number 14:14:33 Rev A - received on 25th May 2020 - Proposed Site Plan;
- Drawing Number 14:14:30 Rev A - received on 25th May 2020 - Proposed Ground Floor Plan;
- Drawing Number 14:14:31 - received on 25th May 2020 Proposed First Floor Plan;
- Drawing Number 14:14:32 - received on 25th May 2020 Proposed Elevations;
- Drawing Number Un-numbered - received on 25th May 2020 1/1250 Scale - Location Plan;
- Drawing Number 14:14:34 - received on 25th May 2020 Proposed Plans/Elevations of Stable Conversion.

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.

03. No development shall occur above floor-slab/D.P.C level until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - To ensure that the development can be properly drained and in the interest of satisfactory and sustainable drainage.

04. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

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

05. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.

06. No development shall occur above floor-slab/D.P.C level until a detailed scheme of improvement works to the Public Right of Way, together with a programme for the implementation and completion of the works, shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be

brought into use until the improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer may be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

Reason - In the interests of highway safety.

07. No part of the development shall be occupied until the arrangements for storage of bins and collection of waste have been provided, in accordance with a scheme to be agreed in writing by the Local Planning Authority, and the facilities shall thereafter be so retained for the designated purposes at all times.

Reason - In the interests of highway safety.

08. No development shall take place, including any works of demolition, until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved plan/statement shall be adhered to throughout the construction period.

The statement shall provide for:

- parking of vehicles of site operatives and visitors
- routes for construction traffic
- hours of operation
- wheel wash facilities
- method of prevention of debris being carried onto highway
- pedestrian and cyclist protection
- proposed temporary traffic restrictions
- arrangements for turning vehicles

All as appropriate and it should be noted that this list is not necessarily exhaustive.

Reason - In the interests of highway safety.

09. The dwellings hereby approved shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason - In the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and/or re-enacting that Order), the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason - In the interests of highway safety.

11. No development shall occur above floor-slab/D.P.C level or before the ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

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

12. Work shall only be carried out on site between 8:00am and 6:00pm in any one day on Monday to Friday; 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason - In the interests of residential amenities.

13. In the event it is proposed to import soil onto site in connection with the development the proposed soil shall be sampled at source and analysed in a MCERT certified laboratory, the results of which shall be submitted to the Local Planning Authority for consideration. Only the soil approved in writing by the Local Planning Authority shall be used on site.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.

14. Notwithstanding the provision of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved, nor shall the external studios or the studios within the dwellings be used as bedrooms, without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings.

15. No removal of buildings, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of buildings and vegetation for active birds' nests immediately before the building is demolished / vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

Reason - In the interests of biodiversity and to accord with policy CS9 of the Local Plan: Core Strategy 2011-2031 and the National Planning Policy Framework.

16. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. The hard landscaping scheme shall take account of any root protection areas to retained trees / hedgerows on site and alternative measures of construction and finishes close to trees. 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 proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

17. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
- II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.
- III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The

scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.

C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard in the interest of public safety.

18. No development shall occur above floor-slab/D.P.C level in relation to the development hereby approved, until the existing industrial and storage use, in its entirety on both the red and blue land, has permanently ceased and the existing buildings removed.

Reason - To deliver the improvements to the appearance of the area and to safeguard the amenity of the occupants of the proposed dwellings.

- 19 A residential charging point shall be provided for each proposed dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. Each socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the

stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

20. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason: To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

Notes

01. 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.
02. 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.
03. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps 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 (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

04. The Highway Authority recommends that the first 5m of the proposed 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 householder.
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall 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 dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public right of way without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
07. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.
08. There is a Public Right of Way (Footpath 2 on the Derbyshire Definitive Map) in close proximity to the area the subject of

the application. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.

- Please note that the granting of planning permission is not consent to divert or a public right of way.
- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058 058 for further information and an application form.
- If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.