

ITEM 3

APPROVAL OF RESERVED MATTERS OF CHE/19/00088/OUT - ERECTION OF DETACHED DWELLING INCLUDING ACCESS AT LAND BETWEEN 34 AND 38 LAKE VIEW AVENUE, WALTON, CHESTERFIELD, S40 3DR FOR MR AND MRS LONG

Local Plan: Unallocated, within the built up area

Ward: Walton

1.0 CONSULTATIONS

Ward Members	No comments received
Local Highways Authority	Local Highways Authority raised no objections to the application in principle at outline stage which included consideration of access and made recommendations for conditions. The Highways Authority were re-consulted as part of the reserved matters and had no further comments to make.
Strategic Planning	Principal of development of a dwelling has already been accepted. Further consideration is required as part of the reserved matters with regards to design (CLP20), biodiversity (CLP16) and water efficiency (CLP13)
Environmental Health	No objections
Design Services Drainage	No comments received
Yorkshire Water	No comments received
Derbyshire Wildlife Trust	Supportive of the retention of some of the existing trees and incorporation of two tree mounted bird boxes. Recommends of an integral bat box be installed as part of the development

Environmental health No objections

Coal Authority No specific comments to make. The Coal Authority will comment on the findings/analysis of the site investigations as part of the discharge of condition 4 of the outline consent.

Representations 18 representations received in total – see report

2.0 **THE SITE**

2.1 The site subject of this application is located on Lake View Avenue, situated at the turning head of the cul-de-sac. The plot is triangular in shape and previously formed part of the garden curtilage of No 38 Lake View Avenue. The application site is within the defined Built up Area 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 ©

2.2 The site and surrounding properties were originally sold as private self-build plots by Chesterfield Borough Council. The site subject of this application was known as 'Plot 59' and was never developed, instead bought by the owners of No 38 Lake View to extend the garden curtilage. The surrounding streetscene is formed of single storey, 1.5 and 2 storey dwellings of similar age which are mixed in character.

2.3 The plot has a narrow frontage facing on Lake View Avenue consists of a gated access. The existing boundary treatments are

varied, including a conifer hedge to the eastern boundary, timber fence to the south boundary and a retaining brick wall to the north/north western boundary. The land levels within the site increase towards the eastern boundary and as such the plot is elevated above No 34 Lake View Avenue to the West.

2.4 Outline consent was previously granted in 2016 (see application CHE/16/00019/OUT) for a single chalet bungalow with all matters reserved, the deadline for the submission of the reserved matters expired in 2019. A new outline application with all matters reserved except access was submitted in 2019 application reference CHE/19/00088/OUT which was granted April 2019 (see site history section below).

3.0 SITE HISTORY

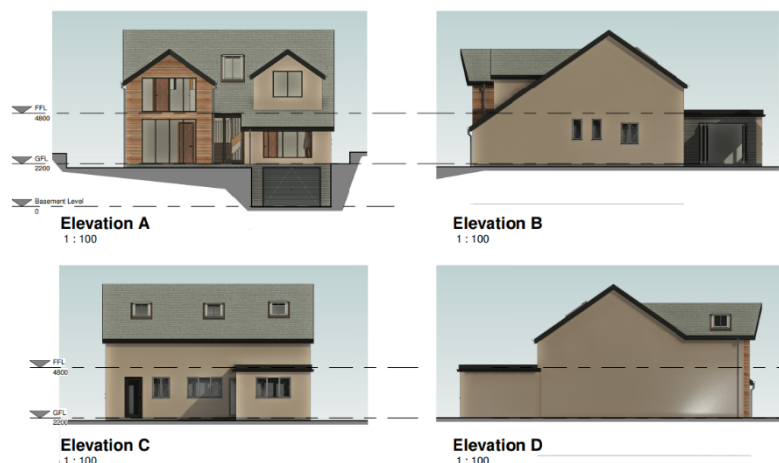
3.1 CHE/19/00088/OUT - Outline application for one residential property including access - **conditional permission (24.04.2019)**

3.2 CHE/16/00019/OUT - Outline application for residential development of a single chalet bungalow with all matters reserved – **conditional permission (31.03.2016)**

3.3 CHE/596/247 – Construction of a greenhouse/conservatory at 38 Lake View Avenue – **conditional permission (28.06.1996)**

4.0 THE PROPOSAL

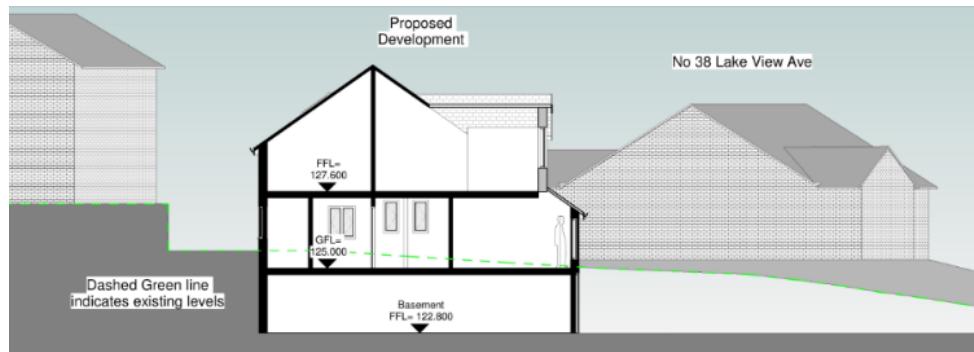
4.1 In line with the outline application, planning permission is now sought for the detailed reserved matters for a detached dwelling. Further information/details have been provided during the application process to clarify the site boundary in accordance with the previously approved outline. Revised plans have been submitted to reduce the footprint of the proposed development and the proposal is assessed on the basis of the revised plans.



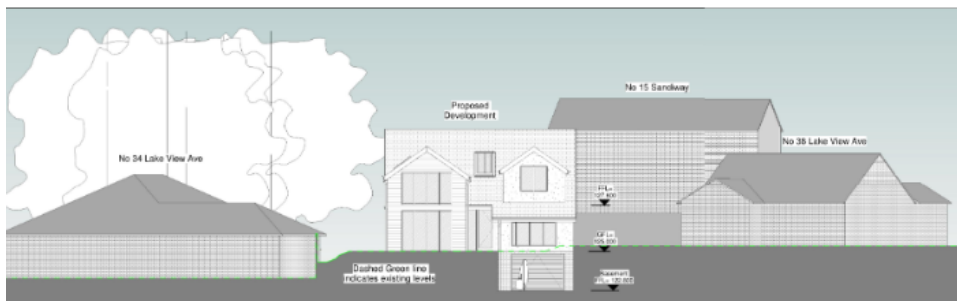
Proposed elevations

4.2

The proposed dwelling is set over three floors with a lower ground basement, and rooms within the roofspace. The proposal features two storey glazing with timber cladding and a pitched roof dormer to the principle elevation. Render is indicated to the remaining elevations.



PROPOSED SITE SECTION A
2/4 1:50

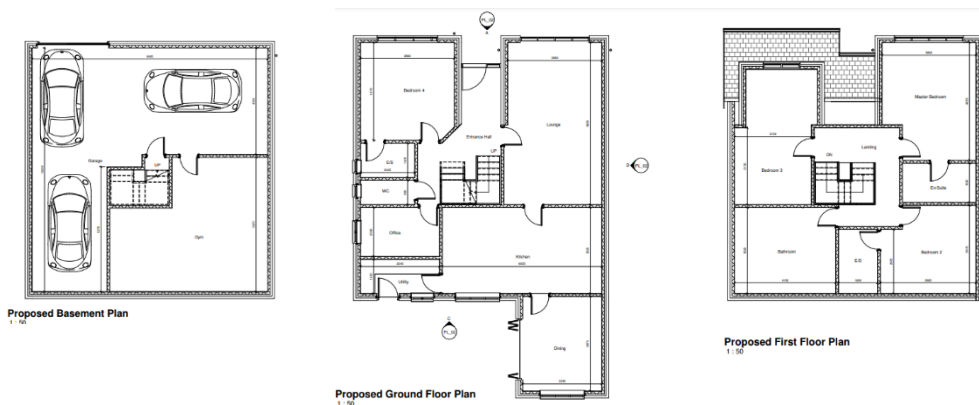


PROPOSED SITE SECTION B
2/4 1:50

Sections of proposed dwelling

4.3

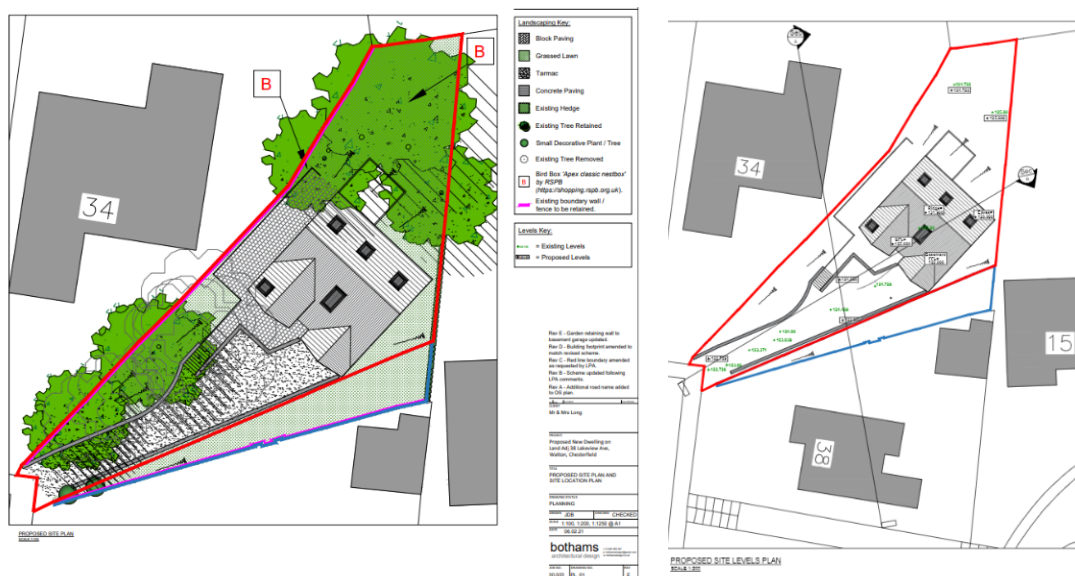
The gross internal floorspace of the dwelling is approximately 303sqm overall. The proposal will create a three car garage and gym within the basement. The ground floor will form a lounge, kitchen, dining room, utility, office, w.c and a bedroom with en-suite. The first floor will comprise of three bedrooms two with en-suites and a shared bathroom.



Proposed floorplan

4.4

The proposal will provide an acceptable level private amenity space which exceeds the minimum recommendations as set out by the adopted Supplementary Planning Document ‘Successful Places’.



Extracts of proposed site plan

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
- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel

Supplementary Planning Documents

- Successful Places A Guide to Sustainable Housing Layout and Design

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

- 5.4.1 The principle of development is established by the outline permission, this application therefore considers the detailed reserved matters only. The approved outline determined that the principle of development for a single infill dwelling in this location was acceptable.

5.5 Design and Appearance of the Proposal

Relevant Policies

- 5.5.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.'*

Considerations

- 5.5.2 The application site comprises of a triangular shaped plot with a narrow frontage to the public highway. In response to the constraints of the site the dwelling is set back approximately 25m from the public highway. The proposal is formed of an asymmetrical dual pitched roof with intersecting gable to the principal elevation and pitched roof dormer. Revised plans reduced the width of the dwelling moving the structure away from the boundary with No 34.

- 5.5.3 The surrounding streetscene is predominately characterised by single storey bungalows however a number have more than one living level (No 28, 32) and there is a two storey property visible in the immediate vicinity (No 47 and 15 Sandiway). As the proposed dwelling will be cut in to the sloping ground of the site to create a below ground basement level, it is acknowledged that the proposal will introduce a development which is two/three storeys in character.
- 5.5.4 The nature of the site with narrow frontage and notable set back of the proposed dwelling is considered to reduce the visibility of the proposed dwelling within the streetscene. The submitted plans indicate the retention of a number of trees which also will provide a degree of additional screening. The proposal is two/three storeys in character, however visibility of the third basement level is restricted to the garage door only. As the proposal will be cut into the existing land levels the prevailing visual scale will be two storeys. In planning terms it is considered that the site can accommodate a dwelling of this scale and would not result in significant adverse impact on the character and appearance of the streetscene.
- 5.5.5 Proposed materials incorporate timber cladding and indicate render to the remaining elevations. Render is not a feature of the surrounding streetscene and it is considered that render is not acceptable in this context. It is recommended that a condition be imposed requiring the submission of proposed materials for consideration and it is suggested that either a brick or stone should be specified to reflect the local vernacular.
- 5.5.6 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the provisions of policy Local Plan policies CLP20 and CLP21.

5.6 Impact on Neighbouring Residential Amenity

Relevant Policies

- 5.6.1 Local Plan policy CLP14 states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'

5.6.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'

Considerations

5.6.3 To assess the impact of the proposal on the residential amenity of the neighbours, further consideration is required of the impacts on the immediate boundary sharing neighbours No's 34 and 38 Lake View Avenue, No 15 Sandiway and No 11 Raneld Mount.

No 34 Lake View Avenue

5.6.4 No 34 is a detached single storey dwelling situated to the north west of the proposed dwelling. The dwelling is served by habitable room windows which are angled towards the application site. Existing boundary treatments between the site and No 34 comprise of a brick retaining wall due to the level changes with hedging/trees within the application site adjacent to the boundary (see photos below)



5.6.5 The submitted revised plans reduce the width of the proposed dwelling setting in the footprint approximately 3.4 from the boundary to create additional separation. The principal elevation of the proposed dwelling has been angled to the south west to create an oblique angle between the proposed principal elevation windows of the dwelling and the existing windows serving No 34. In addition no windows are proposed in the side (north west) elevation of the proposed dwelling facing towards the side elevation of No 34. It is noted that the proposed dwelling will be elevated above the ground level of No 34 and the structure will be two storey in height closest to the boundary. The proposed revised layout serves to address concerns raised regarding the impacts and on balance 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.

No 38 Lake View Avenue

- 5.6.6 No 38 is a detached single storey dwelling situated to the south of the proposal. Existing boundary treatments comprises of a large brick wall and timber fence with concrete panels



- 5.6.7 The submitted revised plans orientate the principal elevation of the proposed dwelling to the south west which faces towards the side elevation of No 38 at an angle. An acceptable separation distance exists between the side elevation of No 38 and the proposed dwelling such 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.

No 15 Sandiway

- 5.6.6 No 15 Sandiway is a split level two storey dwelling situated to the south east of the proposed dwelling. The property is served by a window in the lower ground floor to a utility and two windows at first floor serving a bathroom and en-suite. A mature hedge and brick wall forms the boundary with the application site (see photos below)



- 5.6.7 The application has been revised to remove first floor windows in the side/rear elevation of the proposed dwelling to prevent overlooking. The proposed dwelling is formed of an asymmetric dual pitched roof served by roof lights only in the rear roof pitch. The

footprint of the proposal has been angled to the south west away from the rear elevation of No 15 to limit potential overshadowing impacts. No 15 is served by an elevated patio and conservatory structure which is positioned adjacent to the eastern boundary of the site. The proposed revised layout serves to address concerns raised regarding the impacts and on balance it is considered that whilst the proposal will result in a degree of overshadowing at the sun sets in the west 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.

No 11 Raneld Mount.

- 5.6.8 No 11 is a detached split level dwelling situated to the north of the application site.



- 5.6.9 The submitted revised plans removed first floor windows in the side and rear elevations with the rooms in the roofspace served by roof lights. An acceptable separation distance exists between the proposed dwelling and existing windows serving No 11. The proposal will therefore not adversely impact on the neighbouring residents in terms of loss of light or privacy such that refusal of the case is warranted.

Impacts on other surrounding neighbours

- 5.6.10 The proposal will also not adversely impact on the other neighbouring residents on Raneld Mount, Sandiway and Lake View Avenue in terms of loss of light or privacy such that refusal of the case is warranted.
- 5.6.11 A condition controlling the hours of construction has already been imposed as part of the outline in the interests of the amenity of the surrounding residential occupants.

- 5.6.12 Having consideration for the observations above, based on the siting and orientation of the proposed development it is considered that the proposal will therefore accord with the provisions of Local Plan policies CLP14 and CLP20.

5.7 Highways Safety, Parking Provision and Air Quality

Relevant Policies

- 5.7.1 Local Plan policy CLP20 expects development to ‘g) provide adequate and safe vehicle access and parking and Local Plan policy CLP22 also requires consideration of parking provision.

Considerations

- 5.7.2 The Local Highways Authority raised no objections to the application in principle at outline stage which included consideration of access and made recommendations for conditions. The Highways Authority were re-consulted as part of the reserved matters and had no further comments to make.
- 5.7.3 The proposed dwelling will be served by driveway parking and additional parking will be provided within the below ground basement. Revised plans have been submitted widening the access drive to provide opportunity for passing and for smaller vehicles to turn within the site and responds to the constraints of the site and narrow site frontage.
- 5.7.4 In so far as Air Quality, a condition was imposed at outline requiring the provision of an electric charging point as part of the build phase.
- 5.7.5 Overall taking into account the previously approved outline which considered access arrangements and parking provision condition attached, the development complies with the requirements of CLP20 and CLP22.

5.8 Flood risk, Drainage and Water Efficiency

Relevant Policies

- 5.8.1 Local Plan policy CLP13 states that *‘The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.*
Development proposals and site allocations will:

- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;*
- b) be directed to locations with the lowest impact on water resources;*
- c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.*

5.8.2 Local Plan policy CLP13 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.’*

Considerations

5.8.3 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. No comments were received, however it is necessary to note that details of foul and surface water drainage are controlled by condition attached to the outline which requires the submission of details prior to the commencement of development. It is recommended that a condition be imposed requiring the development to comply with the water efficiency requirements.

5.8.4 Subject to the submission of foul/surface drainage details prior to commencement of development in line with the outline the proposal will accord with the provisions of CLP13 and the wider NPPF.

5.9 Ground Conditions and Land Stability

Relevant Policies

5.9.1 Local Plan Policy CLP14 states that *‘Unstable and Contaminated Land Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*

- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and*
- b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and*

c) a strategy for any necessary mitigation and/or remediation and final validation.

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.

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

Considerations

- 5.9.3 The application site is located in area considered to be at 'high risk' of former Coal Mining Legacy. At outline The Coal Authority recommended a pre-commencement condition covering intrusive site investigations and associated remediation/mitigation if required.
- 5.9.4 Having regards to the provisions of CLP14 the application was referred to the Council's Environmental Health Officer for comments and no objections were raised.
- 5.9.5 Subject to the submission of the findings of intrusive site investigations and any associated mitigation as recommended in line with the outline the proposal will accord with the provisions of CLP14 and the wider NPPF.

5.10 Biodiversity Including Impact on Trees and Landscaping

Relevant Policies

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

- *provide a net measurable gain in biodiversity'*

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

Considerations

5.10.3 The application site plan states that two bird boxes will be installed within the site and indicates trees to be retained.

5.10.4 The Derbyshire Wildlife Trust reviewed the submission and raised no objection and recommended that an integral bat box be installed into one of the elevations at eaves level to further enhance the biodiversity value of the site.

5.10.5 Subject to condition requiring the biodiversity enhancements to be installed and thereafter maintained as recommended above the development accords with the requirements of CLP16 and the NPPF.

5.11 Developer Contributions and Community Infrastructure Levy

5.11.1 Having regard to the nature of the application proposals the development comprises the creation of a new dwellings and is therefore CIL Liable. The site the subject of the application lies within the high CIL zone and therefore the CIL Liability is calculated (using gross internal floor space and is index linked).

		A		B	C	D	E
Development type	Proposed floor space (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 2020	CIL Charge
Residential (C3)	303	0	0	£80.00 High Zone	355	288	£28,879

Calculation:

CIL Charge (E) is calculated as outlined below:

Net Area (A) x CIL Rate x BCIS Tender Price Index (at date of permission) (C)

BCIS Tender Price Index (at date of charging schedule) (D)

Therefore, the CIL charge liable for this application is as follows:

$\frac{303 \times £80 \times 355}{288} = £28,879$

6.0

REPRESENTATIONS

6.1

The application has been publicised by neighbour notification letters and site notice. 7 objections were received in response to the original submission. The neighbours have subsequently been re-consulted twice on revised schemes, one re-consultation took place in October 2021 which resulted in 4 further objections and most recently a second re-consultation took place in November 2022 which resulted in 7 further objections. Therefore 18 Letters of representation have been received in total from 8 properties (including two representations where no address was provided). The main concerns raised are summarized below, full representations are available to read on the website.

- scale/height of dwelling
 - proposal is for a two storey dwelling which is not in keeping with the surrounding single storey dwellings. Scale of new dwelling is far larger than anything nearby. Proposal ignores the prevailing characteristics of the area which are predominately bungalows with selected level variations. Current submission fails to respond to site context and is inappropriate in the setting. Proposal will dominate the surrounding properties and is overdevelopment. General concerns raised regarding the concept characteristic of the development
 - Outline consent was granted in 2016 for a chalet bungalow which was renewed at expiry in 2019. Had plans for a taller property been submitted in 2019 we would've objected to the height on the grounds of amenity impacts. A chalet style bungalow would've been more compatible with the area.
 - Surrounding sites were purchases from the Council as self-build dwelling which were stipulated to be Bungalows (see section below on covenants).
- residential amenity
 - proposal will have a serve impact on No 34 due to the difference in land levels between site and existing dwelling and increase in number of storeys. Proposal will adversely impact No 34 due to the siting of the proposal in relation to No 34, the proposed levels, massing will result in overshadowing and overbearing impacts due to proximity. The loss of screen vegetation and trees will impact No 34. The lack of adequate turning on site and potential traffic movements will impact No 34.

- Will result in overlooking and loss of privacy to surrounding residential properties and gardens. concerns raised in respect of siting of proposal, levels, massing, overshadowing and overbearing impacts.
- Overlooking implications due of loss of screen vegetation and trees.
- Separation distance and potential overlooking arising from oblique angle between habitable room windows resulting in overlooking.
- Mass of proposal will be overbearing and result in overshadowing. Adverse impact on neighbours due to massing, scale and siting of proposal.
- To prevent overlooking windows facing Raneld Mount could be obscurely glazed. Level changes don't show that the application site is elevated about Raneld Mount is set at a lower level to the north.
- Adverse impact on the rear garden and conservatory of No 15 Sandiway resulting in overshadowing and dominating impact – impact light and privacy. Overall height of the dwelling will result in overshadowing and impact light levels achieved to the garden especially in the afternoon and would block light to the side of the house where three windows allow light into the basement corridor and upstairs bathroom which would make the areas in the house darker. Proposed development is much closer to our shared boundary therefore anything more substantial than a bungalow would overlook No 15 and block sunlight
- Loss of existing trees - will contribute to openness of proposal and intrusion of overlooking. The trees are mainly deciduous and expect that the proximity to the new build will result in the potential; loss of approximately 50% as a consequence of the construction. There are some attractive trees on the site which should be served to reduce CO2 build up and in the interests of ecology
- Highway safety concerns
 - Length and narrowness of the access with lack of on-site turning will result in vehicles reversing along the drive onto the highway turning head due to lack of turning space within the site. Resulting in highway safety concerns.
 - Development will result in increase in traffic to cul-de-sac which is already congested when deliveries and refuse disposal are taking place. Insufficient space for vehicles to park/load and unload etc which will lead to vans/lorries

parking outside of neighbour residential homes due to lack of space on plot.

- Concerns regarding highway safety and safety of residents during build period due to construction vehicles and trades over a long period of time.
- Scheme is different than the outline submission - proposal is not a clarification of details of the first proposal it is a total transformation. Submitted application form does not set out reasons for variation in the plans between the original proposal and current submission and the applicants have not sought advice from the planning department. The proposals are so different it seems to be an attempt to submit a new scheme under the guise of a reserved matters application. Proposal not an amendment to original permission as it has no resemblance to previous plan as the structure is far more imposing and considerably higher than as originally proposed
- Red line - Issues surrounding the red line of the reserved matters application
- Ecology assessment - A more substantial wildlife survey should be carried out as the maturity of the plot is a haven for wildlife and more species than currently considered
- Covenant on land requiring single storey dwellings - Stipulated that as part of sale plots should only have development of one height structures. When the estate of self builds were released in the 1980's a specific condition was that they should be one storey in height(except for some builds on Lake View Avenue), this building contravenes that condition as excluding the basement it has two clear levels(not a loft conversion) as shown on the front elevation plan. original documentation from that period can be provided.
- Concerns arising during the construction period - not enough room for parking for trade/builders/deliveries to access the site with limited parking on the public highway. Proposal will cause chaos for residents and road users during the build in an area which already gets congested
- Noise/disturbance – measure should be put in place to avoid disruption to residents such as restriction construction hours and use of machinery to business hours on Monday to Friday
- Comments on revision 1 of scheme – amendments do not address the previous objections raised regarding impact on character of neighbourhood/design and adverse impact on amenity of residents, overdevelopment of site, issues with parking/lack of access, inadequacy of parking/loading/turning, noise/disturbance. Believe that the submission of revised plans is

a strategy in the hope objections will be reluctant to object again. Scheme is no smaller than first submission and does not address concerns raised. Building has not significantly changed apart from moving slightly due to revised boundary therefore original objections remain. Concerns regarding proximity remain and levels remain unchanged, all other points raised previously regarding siting, levels, massing, overshadowing and overbearing impacts, loss of vegetation/trees and screen, traffic movement and lack of on-site turning and general concept characteristics remain unchanged

- Comments on revision 2 of scheme – concerns remain regarding the height or building, difference in levels with respect to surrounding bungalows therefore previous concerns and comments still apply. Proposal will result in the removal of self set trees which impact on the adjacent properties. Minor changes to the scheme which do not address previous concerns raised. Due to narrow access to site construction vehicles and trade vans will likely block access to neighbour properties due to poor access. Concerns remain with regards to impacts on neighbouring properties and amendments made to scheme to not address the detailed list of concerns set out previously.
- Objectors confirmed that points raised previously still apply

6.2

Officer comments

- ***scale/height of dwelling – an assessment has been made as part of the report on the height and scale of the proposed dwelling (see section 5.5 and 5.6). The outline application in 2019 had all matters except access reserved and any forthcoming reserved matters scheme would therefore be assessed on an individual basis based on the design and layout put forwards.***
- ***Residential amenity – an assessment has been made as part of the report with regards to residential amenity (see section 5.6).***
- ***Loss of existing trees – the proposal does seek to retain a number of trees on the site as part of the landscaping***
- ***Highway safety concerns - an assessment has been made as part of the report with regards to highway safety and parking provision (see section 5.7)***
- ***Scheme is different to outline submission - The outline application in 2019 had all matters except access served, any forthcoming reserved matters scheme would therefore be assessed on an individual basis based on the design and layout put forwards.***

- ***Red line boundary – issues regarding the red line boundary have been addressed***
- ***Ecology assessment – the Derbyshire wildlife trust reviewed the submission and raised no objections (see section 5.10 of report)***
- ***Covenant on land requiring single storey dwellings – representations have indicated that residents believe there is a restrictive covenant on the land restricting the development to a single storey dwelling. The application has been ongoing for a lengthy period of time as it is understood discussions have taken place between the applicant and the Borough Council Estates Team. It is important to note that restrictive covenants are classified as non-material planning considerations and therefore cannot be given weight in the determination of the planning application. This matter would be a private matter for the applicant, land owner and Council as former owner imposing the covenant to resolve.***
- ***Concerns arising during the construction period – disturbance during the construction period is classified as a non-material planning considerations and therefore cannot be given weight in the determination of the planning application. Any visitors/trades/deliveries to the site would be expected to observe highway safety regulations as would any highway user.***
- ***Noise/disturbance – a condition was imposed on the outline restricting hours of construction/work.***
- ***Comments on revision 1 of scheme – noted***
- ***Comments on revision 2 of scheme - noted***

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 would introduce additional housing within the existing built up area and therefore meets the strategic requirements of Local Plan policies CLP1 and CLP2 and the NPPF. The principal of a new residential dwelling was previously determined to be acceptable under outline CHE/19/00088/OUT. The proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area Subject to conditions the proposal will therefore accord with the provisions of policy Local Plan policy CLP20. The proposal is not considered to cause significant adverse impacts on the residential amenity of the adjoining neighbours and therefore accords with the amenity considerations of Local Plan policies CLP14 and CLP20. It is considered the site can accommodate sufficient parking for the proposed dwelling and in accordance with the conditions stipulated on the outline therefore the proposal accords with the requirements of CLP20 and CLP22.

10.0 RECOMMENDATION

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

Conditions

Approved plans and documents

1. 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.
 - Proposed Site Plan and Site Location Plan, drawing number PL_01 Revision E
 - Proposed Plans and Elevations, drawing number PL_02 Revision C
 - Proposed Site Levels and Site Sections, drawing number PL_03 Revision A

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

Materials

2. This consent shall not extend to the use of render as shown on drawing PL_02 Revision C. Precise specifications or samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

Reason - To ensure a satisfactory external appearance of the development in accordance with CLP20 and CLP21 of the Local Plan

Water efficiency

3. 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

Biodiversity enhancements

4. The biodiversity enhancements as set out on approved drawing 'proposed Site Plan', drawing number PL_01 Revision E for the installation of two bird boxes and one integral bat box shall be implemented in full prior to the occupation of the development and maintained thereafter.

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

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 the Chesterfield Borough Council CIL charging schedule and 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). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may be eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.

4. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
5. The buildings and landscaping have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.
6. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter which would be an offence under relevant regulations. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
7. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties.