

ITEM 1**Demolition of 20 and 22 Somersall Lane and erection of three replacement dwellings with associated parking and turning areas (existing accesses retained) on land at 20 Somersall Lane for Rutland UK property Ltd.**

Local Plan: Unallocated

Ward: West

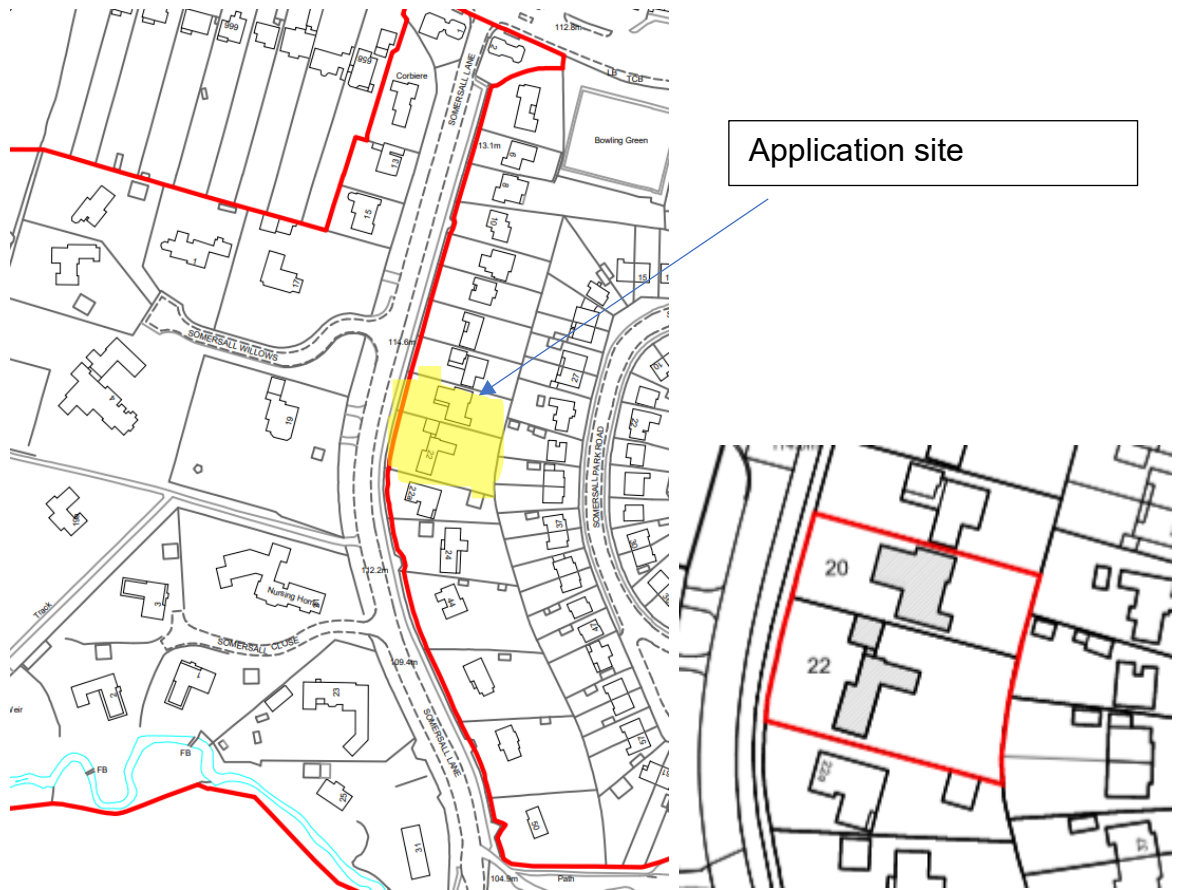
Plot No:

Committee Date: 13th March 2023**CONSULTATIONS:**

CBC Tree Officer	Comments made see below
CBC Design Services	Comments made see below
Yorkshire Water	Recommended conditions – see below
Highway Authority	Comments made see below
Derbyshire Wildlife Trust	Comments made see below
CBC Conservation Officer	Initially raised concern. On the revised scheme comments made, see report below.
Archaeology	Comments made see below
Ward members	No representations received
Representations	12 comments received from 6 local residents – see report

2.0 THE SITE

2.1 The application site is the dwelling and gardens of two existing bungalows located at no's 20 and 22 Somersall Lane. The existing bungalows are of differing designs with no. 20 being an 'L' shaped floor plan with projecting gable and feature chimney to the frontage and no. 22 being a simple bungalow with low ridge height and roof pitch filling the width of the plot. The site is within a built up residential area of Somersall. There are protected trees to the site frontage which is partially within the Somersall Lane Conservation Area as shown by the red edged boundary below. The trees along the street are protected by Tree Preservation Order:



2.2 Details of the character of the Conservation Area are considered under section 5.6 of the report below.

2.3 Images of the site: No. 20:





2.4

Images of No. 22:





No. 20:



No. 22:



2.5

Google map images:



3.0

SITE HISTORY

3.1

CHE/21/00750/FUL Alterations, rear and side extension and loft conversion with rear and side dormer to existing bungalow (revised drawing received 08.12.2021) – Conditional permission 18.01.2022.

4.0 THE PROPOSAL

4.1 Through the application process the proposals have been amended to address the concerns raised by the Conservation Officer and representations received. These matters are considered under section 5.6 below.

4.2 The proposal is to erect three, two storey dwellings in place of the two existing bungalows. Each dwelling proposed is to have 4 bedrooms set within the roof space with integral garage. Plot 1 is to use the existing access to no. 20 and plots 2 and 3 would share the access to no. 22. Each of the units are set back from the front of the site. No works to the protected trees along the site frontage are needed.



4.3 The set back from the road frontage aligns with development along the street and allows for an area of landscaping as well as parking and turning space.

The width of plot 1 is approximately 13.2m

The width of Plot 2 is approximately 14.3m.

The width of plot 3 is approximately 12.7m

4.3 The existing and proposed street scene have been submitted to support the proposals and which provides detail of the design of the units in their context:



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.

5.1.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that; In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

CLP1 Spatial Strategy (Strategic Policy)

CLP2 Principles for Location of Development (Strategic Policy)

CLP3 Flexibility in Delivery of Housing (Strategic Policy)

CLP4 Range of Housing

CLP13 Managing the Water Cycle

CLP14 A Healthy Environment

CLP15 Green Infrastructure

CLP16 Biodiversity, Geodiversity and the Ecological Network

CLP20 Design

CLP21 Historic Environment

CLP22 Influencing the Demand for Travel

5.3 **Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)
- Residential SPD Successful Places
- Somersall Conservation Area Character Appraisal

5.4 **Key Issues**

- Principle of development
- Design and appearance and impact on Heritage Assets
- Impact on residential amenity;
- Highway safety
- Biodiversity and trees
- Ground conditions
- Drainage

5.5 **Principle of Development**

5.5.1 Policies CLP1 and 2 of the Adopted Local Plan set out the strategic approach to sustainable development. CLP1 states that the overall approach to growth will be to concentrate new development within walking distance of a range of Key Services.

5.5.2 The application site is within an established residential area with good access to local services and facilities along Chatsworth Road as well as public transport routes in and out of town, making the site acceptable in principle for development in line with policies CLP1 and CLP2. Subject to more detailed consideration the principle of the development is in line with Adopted Local Plan policy.

5.6 **Design, Appearance and Impact on Heritage Assets**

5.6.1 Policy CLP20 of the Adopted Local Plan seeks that; All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context, that development will be expected to a) promote good design, and b) respect the character, form and setting of the site and surroundings.

5.6.2 Policy CLP21 requires that in assessing the impact of a proposed development on the significance of a designated heritage asset, the

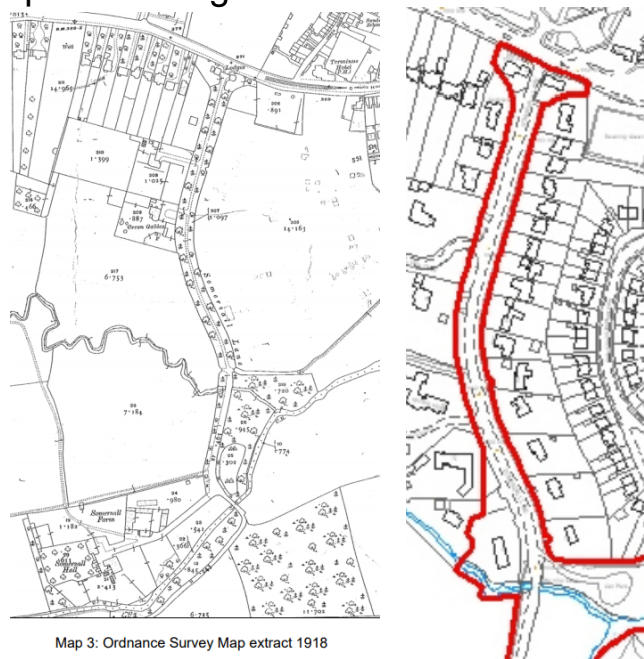
council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible. In this case the designated asset is the conservation area located to the site frontage, incorporating the frontage boundary walls only. The policy goes on to note that: c) the council will: use Conservation Area Appraisals and associated Management Plans to ensure the conservation or enhancement of the individual character of each of the borough's Conservation Areas.

- 5.6.2 The NPPF in para 199 requires that: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.6.3 The NPPF in para 202 advises: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 5.6.4 The Conservation Area Appraisal provides context for the application site and the significance of the Conservation Area. The Lane was originally a rural tree lined access route to Somersall Hall framed by entrance lodges, and whilst the surrounding area is now developed, this historic purpose and character is still intact and can still be appreciated. The Appraisal notes: "Although the sides of the lane have been developed, the character of Somersall Lane as the historic avenue approach to Somersall Hall is still discernible."
- 5.6.5 The Conservation Area was originally of an elongated form following the line of the Lane however it has since been expanded to include development to the west. The appraisal notes: "Somersall Lane West Area (extension) - This additional area complements and enhances the character of the original area and because of this it was of worthy receiving conservation status. The area has a more noticeable spacious and verdant appearance, arising from the large plots and the presence of substantial trees and other vegetation. It benefits from a particularly leafy character formed by the mature trees and well-defined large gardens. The massed foliage enhances the quiet atmosphere and sense of privacy within the area, characteristics which are the result of low-density development and the seclusion of the area from the highways which adds to its peaceful character. The high ratio of green

space to built form enhanced by the large gardens is important as a landscape resource to the area as well as forming a strong landscape feature defining the area. The spacious geometry of the street and dominance of trees, planting and boundary walls within the streetscape makes this area a significant unifying feature to the North Character Area.”

5.6.6 In general terms the appraisal notes: “Boundary treatment contributes significantly to the character and appearance of the Somersall Conservation Area. These are cohesive features in views within the area. The boundary treatment includes stone and brick boundary walls, piers and railings. There are some remaining historic boundary treatments in the area including dry stone walls and hedgerows. Where they remain, traditional boundary walls, gates, gate piers and railings and hedgerows must be preserved, sympathetically restored or reinstated when the opportunity arises.”

5.6.7 The mapping within the appraisal demonstrates the start of the development along the lane between 1898 to 1918:



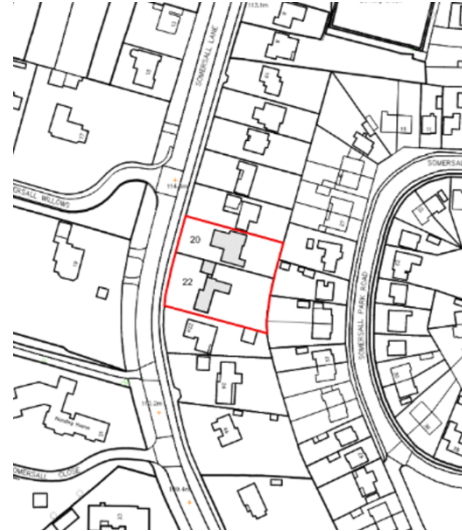
5.6.8 In 1972 the Conservation Area was formed, being later extended to the west as shown above and as referred to earlier.

5.6.9 From this understanding of the significance of the Conservation Area it is clear that the trees along the lane and the dry stone wall frontages are integral to the character of the Conservation Area. The area of the application site that is within the Conservation Area will largely remain unaltered as a result of this development. There are no works proposed

that will impact on the street trees. The access to No. 20 will be slightly widened, however it is important to note that such works could have been undertaken, with the benefit of planning permission, to serve the existing dwelling. The area of soft landscaping to the frontages is intended to remain albeit reduced in size. Where this is to take place is outside of the Conservation Area and could have been undertaken as permitted development for the existing dwellings. Therefore, in terms of the frontage of the site and the impact this has on the significance of the Conservation Area the scheme is considered to be acceptable.

Increase density / Plot width:

- 5.6.10 Concern has been raised that the increase in density will adversely impact on the character and appearance of the conservation area. It is important to note at this point that the main area of the application site is not within the Conservation Area but adjacent to it, and therefore impacts relate to the setting of the Conservation Area. As noted above the tree lined street, front gardens and stone boundary walls are key elements of the character which will remain largely unchanged. The issue is therefore to consider whether two storey housing and an increase in density from 2 to 3 dwellings adversely impacts on the setting of the conservation area.
- 5.6.11 The approximate plot widths of the proposed development are:
Plot 1, 13.2m
Plot 2, 14.3m
Plot 3, 12.7m
The width of the plot for no. 22a is approximately 13.3m
The width of the plot for no. 18 is approximately 14.3m
The width of plot 16 is approximately 14.4m
The width of plot 14 approximately 14.2m
The width of the plot at no. 12 approximately 12.5m
These are based on measurements from the proposed location plan.



Therefore, the widths of the proposed plots are not dissimilar to the existing, with the width of the plot at no. 22 being the anomaly within the row, with 22a being again a narrower plot.

5.6.12 As can be seen on the image above, south from no. 24 Somersall Lane the widths of the plots become much greater than those to the north of no. 24. The dimensions being 23.4m at no. 24 and 26.4m at no 44 (number change but the following dwelling in the street). Therefore, the proposed reduced plot width as a result of this application is within similar dimensions to the remainder of plots to the north of no. 24. On this basis the increase in density in terms of plot width is not considered to be so out of character with the surroundings that this would result in harm to the setting of the Conservation Area.

Two Storey:

5.6.13 The existing bungalows have minimal impact on the street scene due to the set back from the highway, no. 22 in particular has a very low pitch roof and ridge height. Due to the landscaping of the garden and treed street this dwelling sits very quietly within its plot. Whilst being lower buildings each of the dwellings does effectively fill the width of the plot.

5.6.14 The eastern side of Somersall Lane is typified by dwellings that are of differing age, design, style and scale. This is very different to the western side of the Lane where there are much more substantial dwellings, often of an arts and crafts design, sat within larger grounds. To the eastern side of the Lane there are two storey dwellings and bungalows along the street, the majority of dwellings along the street are two storey properties. It is therefore considered that in principle, two storey development in this location exists and is appropriate.

5.6.15 Concern has also been raised that the gaps between the proposed dwellings are too small resulting in adverse impact upon character. Through the application process the design and siting of the dwellings has been amended to have a better relationship between the proposed dwellings and to reduce the visual bulk of the dwellings from the frontage. This has resulted in rooms within the roof space or within gables to minimise the visual impact and visual scale. This has resulted in a scheme that sits comfortably within the street scene as demonstrated on this street scene plan:



INDICATIVE PROPOSED STREET SCENE

5.6.16 It is considered that the revised design, achieves an appropriate balance to the elevations, reducing the original bulk of the buildings and improving the quality of the architecture. The design of each unit is slightly different in line with the character of the street. The space between the buildings reflects the spaces which currently exist between buildings adjacent to the site. This scheme is therefore considered to be appropriate within the street scene and is acceptable in terms of the spacings between the buildings. Having considered the detail of the proposed development, it is not considered that this proposal will result in undue harm to the setting of the Conservation Area. As there will be a change from the existing development there will be a small degree of harm which is considered to be at the lowest end of the scale of less than substantial harm and which is outweighed by the benefits arising from provision of additional updated housing in line with para 202 of the NPPF.

5.6.17 This conclusion is in line with the final comments of the Council's Conservation Officer: "Overall the revisions are an improvement, when viewing the revised 'indicative proposed street scene' drawing, the design of the frontages of plot 2 and plot 3 have reduced the dominance and projection of the houses into the adjacent conservation area and street scene by removing the two-storey entrance block (plot 2) and reducing the large pitched gable (plot 3). There is little more open separation between the proposed houses which slightly lessens the

intensification of development, at least visually. On that basis I would say that the harm to the conservation area would be very much less than significant in NPPF terms, and likely acceptable when balanced against the need for this type of property in a diverse commercial housing market.”

5.6.18 In terms of Archaeology the County Archaeologist has considered the case and commented that:

“In terms of below ground archaeology, a polished Langdale stone axe dating from late Neolithic to the early Bronze Age (MDR5355) was reported as having been found on the agricultural land of Hall Farm (an early C17th Hall House, Grade II) some years before in 1924. At the time this land also encompassed the proposed development area. However, from Ordnance survey maps it is clear that development of the land, after the war but before 1955, created the site in its current form. This development will in all probability have removed any underlying archaeology and I have no objection on archaeological grounds.”

On this basis there are no archaeological issues relating to the development.

5.6.19 It is therefore considered that the revised scheme, which is of a much-improved design, is appropriate to the site context and acceptable in terms of policy CLP21 and Para 202 of the NPPF in relation to heritage assets and appropriate in terms design in line with Policy CLP20 of the Adopted Local plan. A condition regarding material finishes will be required to ensure the finished scheme is appropriate to the sensitive context.

5.6.20 Policy CLP20 refers to new development being able to withstand the long term impacts of climate change. No details have been submitted to demonstrate any use of renewable technologies or other climate measures for the dwellings or through construction. Whilst it is assumed the development will be subject to the updated building regulations which will require this, it is nevertheless reasonable to impose a condition requiring a statement setting out how the development will address matters of climate change.

5.7 Impact on Residential Amenity

5.7.1 Concern has been raised that the development will result in adverse amenity impacts in terms of loss of privacy and overlooking, particularly to the rear of the site.

- 5.7.2 Policy CLP14 requires that: All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare) and other environmental impacts.
- 5.7.3 From the proposed location plan the separation distances from the rear of the proposed dwellings to the rear of the dwellings on Somersall Park Road is approximately 30m. This is substantially in excess of the minimum separation distance of 21m recommended within the Residential SPD and is therefore considered to be acceptable. It is recognised that there is a level change between Somersall Lane and Somersall Park Road and from the north to the south of Somersall Lane itself. However, these level changes along with the separation distances are considered to be within acceptable limits beyond the requirements of the SPD.
- 5.7.4 It is recognised that the dwellings will change from single storey to two storey dwellings and that this will be a change to the existing residents. However, this does not make the development unacceptable in amenity terms as set out above.
- 5.7.5 The proposed block plan shows the 45 degree line from the adjacent windows of the neighbouring properties either side of the development. This shows that the development is within acceptable limits, with the set back from the frontage of the site assisting with minimising the impacts to either side neighbour. It is also noted that plots 1 and 3 have been designed to minimise their height nearest to the neighbouring properties including a flat roof element to the rear elevation. The proposed Juliette balcony to the rear elevation is not considered to result in any greater impact on amenity over that of a large window opening and as such this is also considered to be acceptable.
- 5.7.6 To the side elevation of the proposed dwellings there are windows which could result in some amenity impacts to future occupiers so it is important to consider the details of these windows;
To plot 1 the upper floor windows are to bathrooms and the hallway which will be obscure glazed. The ground floor windows due to boundary treatments will not result in overlooking.
To plot 2 the upper floor windows are to bathrooms which will be obscure glazed. The ground floor windows due to boundary treatments will not result in overlooking.

To plot 3 bathroom windows and a hall window are to the upper floor which will be obscure glazed to prevent any adverse impacts. The ground floor windows are considered to be acceptable.

A condition can ensure the windows are obscure glazed and that they will remain so in perpetuity.

- 5.7.7 Having assessed the details of the scheme it is considered that the development is acceptable in terms of amenity impacts on neighbouring residents and future residents in accordance with Policy CLP14.

5.8 Highway Safety

- 5.8.1 Policy CLP22 requires that: Development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 5.8.2 The Highway Authority has commented on the proposal:
“The proposal seeks the demolition of 2 existing bungalows and the construction of 3 four-bedroom dwellings with associated off-street parking including integral garages.
The existing vehicular accesses currently serving the existing bungalows will be retained to serve the proposed development. Plot 1 will not result in the intensification in use of the Northern access as the bungalow will be replaced with a single dwelling.
Whilst the Southern access will see an increase in vehicle movements as the access will serve 2 dwellings, due to the width of the fronting footway/verge it is considered that the access benefits from acceptable levels of emerging visibility in either direction and the increase in traffic generated by the proposal is unlikely to lead to any safety issues associated with the existing access.
Typically, vehicular accesses serving multiple dwellings should have a minimum width of 4.25m (with an additional 0.5m provided to any side adjacent to a physical barrier) to allow the passing of vehicles, however, the widening of the existing dropped vehicle crossing would likely negatively impact the adjacent tree's and in this instance it is not considered that a vehicle waiting on Somersall Lane for a vehicle to exit the site would be detrimental to highway safety.
The submitted plans demonstrate sufficient levels of off-street parking by way of garage and driveway(s) to serve each dwelling. Conditions recommended.”

5.8.3 Given that the existing access points are acceptable in terms of visibility and that appropriate parking levels are provided, there are no highway concerns arising from the proposal which is considered to meet the requirements of Policy CLP20 and 22 in terms of highway matters. The recommended conditions where they meet the tests for planning conditions are included within the list of conditions below.

5.9 Biodiversity and Trees

5.9.1 Policy CLP16 requires that; The council will expect development proposals to:

- protect, enhance and contribute to the management of the borough’s ecological network of habitats, protected and priority species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a local wildlife site or priority habitat; and
- avoid or minimise adverse impacts on biodiversity and geodiversity; and
- provide a net measurable gain in biodiversity.

5.9.2 Prior to the Environment Act coming into force, which is anticipated in November this year, the Local Planning Authority is only seeking a measurable net gain on major development sites but is seeking enhancements wherever possible. In line with the policy it is also important to consider the ecological impacts of the development.

5.9.3 Derbyshire Wildlife Trust (DWT) has commented that:
“The bat surveys undertaken have confirmed the presence of a maternity roost of common pipistrelle bat in 20 Somersall Lane. The proposed development will result in the destruction of the roost and therefore the development will need to secure a European Protected Species licence from Natural England. The bat survey includes mitigation proposals, and these are considered to be in line with current guidelines.

In reaching a decision, it is important that the local planning authority demonstrates how they have fully considered the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

(i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial

consequences of primary importance for the environment (Regulation 53(2)(e))

(ii) That there is no satisfactory alternative (Regulation 53(9)(a)); and
(iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9)(b))”

5.9.4

It should be noted that whether or not permission is granted, the licensing body is Natural England and not the Local Planning Authority, therefore whether or not permission is granted there needs to be further consideration under the licence procedure. Nevertheless, the response to these tests is set out below:

- i) There is some confusion over the regulations, which appear to have been amended in 2017 and 2019 and now appears to be within section 55, which specifically refers to the licencing body, which is not the LPA. However, considering available guidance it would appear that the granting of permission is usually sufficient when considering the licence for this test to be met. In this case the applicant /owner would consider the economic need for the development to take precedence, thereby meeting the test.
- ii) In terms of alternatives, there is no reasonable alternative site to be considered given the minor nature of the application and the land ownership. It is noted in guidance that the approach should be to avoid, mitigate and compensate. It is not considered reasonable given the landownership that avoidance is appropriate, it is clear from the planning history that minor works to the dwelling may equally result in the need for mitigation. The mitigation would be provided by the licence and bat roosting opportunities would be provided within the new dwellings.
- iii) In relation to test (iii) DWT has advised that the proposed mitigation measures are suitable to maintain the favourable conservation status of the local bat population.

On this basis it is not considered that the presence of the protected species and need for a licence in relation to bat species should in this respect warrant a refusal of the planning application.

5.9.5

DWT further commented that:

“The mitigation plan will need to be finalised and agreed with Natural England as part of the application for a licence. A condition relating to this is recommended. The Preliminary Ecological Assessment (PEA) and bat survey have also highlighted that a birch tree within the site has features that could make it suitable for roosting bats. If this tree is felled

or pruned the mitigation measures set out in the PEA should be strictly followed.

The PEA also assessed the impact on habitats at the site and has confirmed the loss of part of the existing gardens which include introduced shrubs and amenity grassland. There are no impacts on any designated sites (statutory or non-statutory) and no impacts on any Habitats of Principal Importance. Other than bats (discussed above) impacts on species are probably limited to breeding birds and possibly hedgehog.

We support the measures proposed by the Tree officer to the Council regarding landscaping and the need to protect trees on the edge of the property on this basis conditions are recommended.”

- 5.9.6 Whilst the Tree Survey plan shows the Birch tree to be retained, it is important to condition the need for a bat survey should this tree need to be removed for any reason.
- 5.9.7 The PEA makes it clear that further survey work is required. This has been undertaken and the need for a licence and mitigation works required. A condition to enhance biodiversity is recommended along with the need to demonstrate that a NE licence has been obtained.
- 5.9.8 To ensure that hedgehogs are not harmed precautionary measures should be undertaken. In addition the fencing proposed will need to include hedgehog holes, again this can be conditioned.
- 5.9.9 Subject to conditions the impacts on ecology and the need to consider appropriate biodiversity measures have been met.

Trees:

- 5.9.10 There are protected trees to the site frontage which will remain unharmed by the development. The category A and B trees on site are all shown to be retained as they are outside the area of the proposed dwellings.
- 5.9.11 The Council’s Tree Officer has commented on the impacts on trees: “Tree Survey - A tree survey and constraints plan by Weddle Landscape Design dated June 2022 has been submitted with the application. The survey has identified two category class B trees to the rear of 20 Somersall Lane located in the neighbouring property at Somersall Park Road reference T7 Sycamore and T8 Copper Beech. To the frontage of 20 & 22 Somersall Lane which is within the

Somersall Conservation Area is one Category A tree, T14 Sycamore located to the frontage of 22 Somersall Lane and two category B Horsechestnut trees reference T10 & T12. There are also two Hornbeam and one Lime tree to the frontage which are part of the tree lined Lane which are a main feature of the Somersall Conservation Area. Further trees and shrubs are located within the gardens of the two properties, but these are low quality trees, conifers and shrub species that have been shaped or overgrown and have little significance although do provide some public amenity due to their location adjacent to Somersall Lane and the conservation area.

Site Layout - The site layout shows 3 new dwellings using the existing access points for 20 and 22 Somersall Lane. All category A & B trees are to be retained but this is due to them being located off the development site. It is also shown that category C trees T2 Birch and what appears to be T3 Cupressus Spp and T4 Goat Willow are to be retained although this should be confirmed within a Tree Retention Plan as part of the landscaping proposals.

The main concern regarding the application is the possible impacts on the trees along Somersall Lane and neighbouring properties. Suitable tree protection measures should therefore be submitted for approval to avoid any accidental damage or compaction of the rooting environment. Conditions recommended.”

5.9.12 Subject to conditions as recommended it is considered the proposal will not adversely impact on valuable tree species within and adjacent to the site. On this basis the proposal meets the requirements of Policy CLP16.

5.10 Ground conditions

5.10.1 Policy CLP14 requires that; 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.

5.10.2 The application site is outside of the high risk area for former coal mining activity where the Coal Authority recommend referring to their Standing Advice. This is to be added as a footnote within the recommendation. There are no other known ground conditions which require mitigation.

5.11 Drainage

- 5.11.1 Concern has been raised that the drainage of the site as noted on plan is not in line with what is available on site and that new development will result in over capacity of the drainage system.
- 5.11.2 Policy CLP13 requires 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 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.
- 5.11.3 It is noted that this is a minor development where the Building Regulations process will ensure that the drainage of the site is appropriate along with the need to secure permission from Statutory Undertakers to connect into existing drainage. There is no need in such cases for surface water run off provision beyond the existing garden land.
- 5.11.4 Yorkshire Water has commented that: "Conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure." They have also noted that: "It is noted from the submitted drawing that surface water will be draining via soakaways within the rear gardens; however, the drainage to the front of the properties are discharging to the public sewer network via the assumed existing "combined" drainage. If the site can drain via soakaways then this should be the case for the entire site, in the interest of sustainable drainage practice. In addition, the submitted topographical survey doesn't indicate any "combined" drainage discharging to the public sewer network. If infiltration (soakaways) cannot be achieved for the entire site, there are separate sewerage networks available. Following the discount of a connection to any potential watercourse, the surface water outfall would be to the 225 mm diameter public surface water sewer within Somersall Lane, at a maximum rate of 3.5 per second."
- 5.11.5 The Council's Design Services Drainage officer has noted similar comments: "All surface water from the proposed new dwellings should be disposed of via soakaways, and not just that to the rear of the site. Evidence of their suitability must be provided by carrying out percolation tests, together with resulting sizing calculations in accordance with BRE Digest and designed not to flood during a 1 in 30 year rain fall event or

allow flooding to properties during a 1 in 100 year rainfall event, including allowance for climate change.”

5.11.6 Subject to the recommended conditions and a further condition to secure water efficiency it is considered that the proposal is acceptable in terms of drainage impacts. If there are deficiencies within the drainage system then this may need to be altered to allow appropriate connections. The proposal meets the requirements of Policy CLP13.

5.12 Development Contributions and CIL Liability.

5.12.1 The proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the high CIL charging Zone (£80) as set out in the Council’s Charging Schedule ([Community Infrastructure Levy \(CIL\) \(chesterfield.gov.uk\)](http://chesterfield.gov.uk)). The CIL charge is calculated based on the proposed plans and existing block plan as follows:

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

BCIS Tender Price Index (at date of Charging Schedule) (D)

As set out below:

			A	B	C	D	E
Development Type	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
Residential (C3)	Plot 1 260 Plot 2 268 Plot 3 230 = 758	No. 20 148 No. 22 168 = 316	442	£80	355	288	£43,586

6.0 REPRESENTATIONS

6.1 Altogether 12 comments (not including duplicate letters) received from 6 parties residing on Somersall Lane and Somersall Park Road.

Comments on original scheme:

- 6.2 In a time when we know that we must not throw away perfectly good products as this increases carbon emissions and land fill I find it appalling that two relatively new perfectly good properties are to be demolished. This is a waste of world resources. The properties could be renovated without being demolished. This proposal is for profit with no thought to the environment. The three houses will be luxury homes far too expensive for a working family earning average wages. The boundary consists of trees and hedges that provides habitat for a variety of insects, birds, hedgehogs and other small mammals. Destruction of the boundary will result in loss of habitat.
- 6.3 The hedge boundary line should not be removed. The additional larger homes will put pressure on sewerage and water systems.
- 6.4 The drain to no. 20 is shared with no's 18, 16 and 14. The drain from no. 16 now serves the Willows and the additional bungalow and therefore would be under more pressure. The drains have blocked before. The closeness of the houses is out of character as other houses are well spaced.
- 6.5 This is a desirable place to live with unique visual qualities and character. The scale, density and design of the development is harmful to the character and appearance of Somersall Lane.
1. The character of Somersall Lane is principally defined by its avenue of mature trees and the spacious layout of residential properties along it. To the west the arrangement of buildings is more informal with large properties in substantial grounds within a wooded setting. To the east the residential layout has a more formal character with consistent plot widths and generous setback to the houses. There is a mix of house types with gaps at first floor providing a sense of space. The proposal would be contrary to this character:
- The plot widths would be significantly narrower than the typical plot widths along this side of the Lane.
- The gaps between the new homes would also be squeezed down to around 2m with the houses filling the gaps rather than having single storey or spaces between.
- The dwellings would project forward of the building line.
2. This will set an undesirable precedent for the redevelopment of other large plots and properties in the street further eroding the character and appearance.
- The design and layout of development over the years has maintained the character by carefully controlling infill development.

This is likely to lead to proposals for further infilling of larger plots on the lower part of Somersall Lane.

3. The site is on the boundary of Somersall Lane Conservation Area and forms part of its setting as a heritage asset. National policy gives great weight to the conservation of heritage assets and expects that any harm requires a clear and convincing justification, there is none in this case.

The Conservation Area Character Appraisal noted: to the east side of the lane the grass verge separates the road from a footway abutting a low dry stone wall forming the frontages of the properties, which consist of large houses set back from the street.

The site is therefore part of the setting of the Conservation Area.

The set back of the houses and their separation contributes to the character of the Conservation Area.

The houses on the eastern side of the road respect the space around the avenue of mature trees and remain secondary to it helping to preserve its heritage significance.

6.6 We are concerned at the loss of privacy that may result from the development. The replacement of bungalows with houses will impact on our privacy overlooking our home. There is a height difference between the Lane and Park Avenue to the rear resulting in a disproportionate impact. The dwellings would be close to our boundary where we sit out in the garden. The SPD advises that proposals affecting sloping sites should ensure overlooking problems are not aggravated. Existing screening should be retained and further screening added. We endorse the comments of the Tree Officer who noted that the trees should be retained. Trees T2, 3 and 4 are to be kept and T5 and 6 should also be retained.

6.7 The dwellings will closely adjoin one another which will change the character and appearance of the area. The denser form of development would lose vegetation in the frontage which could not be replaced due to the need to provide access and turning to each dwelling. If this followed along the street the character would be further eroded. The drainage arrangements seem incorrect. The roof heights should be as shown on the street elevation with a condition relating to floor levels.

Comments on the revised scheme:

6.8 Object to the demolition, it is difficult to understand the proposal when people want to live in bungalows.

- 6.9 the minor changes to the scheme have done nothing to mitigate the concerns previously outlined. The plot sizes will be smaller than others on Somersall Lane and out of character adversely impacting the Conservation Area. Parking and bin storage to the frontage leaves little space for landscaping which is needed to integrate the development into the street. This will set a dangerous precedent.
- 6.10 the main change appears to be that the dwellings have been set back to the building line. However, the plots widths remain narrower than is typical on the street. The gaps between houses although slightly increased on the amended plans nevertheless do not reflect the generous space between dwellings on the Lane. In an attempt to increase the gaps between the dwellings, the frontage of the houses on plots 1 and 3 are now narrower, resulting in dwelling which appear noticeable less substantial than the surrounding dwellings. The revised plans draw attention to the mass of hard surfacing which would be necessary at the front of the dwellings. The revised plans therefore show a cramped and inappropriately scaled form of development which fail to respect the spacious landscaped character of the area. Dwellings in the area such as no's 11, 15 and 22a have respected plot widths and space around the dwellings. The revised scheme would encourage proposals for the redevelopment of other larger plots. Reducing the plot widths here would allow this to happen further towards Somersall lark. Which would erode the spacious character and appearance of the Lane where it leads to open countryside. The amended scheme would harm the character and appearance of the area without justification.
- 6.11 Consider the environmental and landfill impact this development creates when the houses could be refurbished to 2 eco homes. The timescales for responses are unrealistic and unfair. Only allowing 3 minutes for each speaker is not fair.
- 6.12 The revised plans appear to increase the height of the development increasing overlooking as we are on lower ground. The height line is taken from the neighbouring building which is also on higher ground. The impact is a significant deviation form the current street scene, out of keeping. Retention of all boundary trees should be conditioned to retained habitat and reduce impact on the environment. This is focused on value for the developer rather than designing what will fit in.

6.13 The revised plans do not change my mind. Three buildings where there are two is not in keeping with the area. There is no reference to the position of drains on the new plan and their use. The boundary between no. 20 and 19 has been shown with a fence, I do not believe that is a boundary they own and it should not be changed.

6.14 **Officer response:**
The comments raised are responded to within the report above. In regard to land ownership and boundary control these matters are a civil legal matter between the landowners and cannot be resolved through this planning application. Any granting of planning permission does not override property ownership rights.

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 paragraph 38 of 2021 National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be

‘sustainable development’ and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

9.0 **CONCLUSION**

9.1 Having considered in detail the impact on the conservation area it is considered that whilst there may be very low level less than substantia harm to the setting of the conservation area this is easily outweighed by the benefit of additional housing.

9.2 Amenity impacts arising from the proposal are considered to be well within acceptable limits with separation distances being beyond the minimum requirements set out in guidance.

9.3 Subject to conditions to ensure appropriate details in terms of tree protection, highway matters, materials, landscaping, drainage and ecological mitigation, and enhancement the proposal is considered to meet the policy requirements of the Adopted Local Plan and National Policy and is therefore recommended for approval.

10.0 **RECOMMENDATION**

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

Conditions

1. 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

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception

of any approved non material amendment or conditional requirement below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below):

Location plan 2021-196-01
Proposed location plan 2021-169-13 Rev P01
Proposed block plan 2021-169-03 Rev P03
Proposed plot 1 floor plan 2021-170-05 Rev P03
Proposed plot 1 elevation plan 2021-170-06 Rev P03
Proposed plot 2 floor plan 2021-170-07 Rev P03
Proposed plot 2 elevation plan 2021-170-08 Rev P03
Proposed plot 3 floor plan 2021-170-09 Rev P03
Proposed plot 3 elevation plan 2021-170-10 Rev P03
Existing and proposed street scene 2021-170-04 Rev P03
Tree survey and tree constraints plan

Reason: In order to clarify the extent of the planning permission.

3. No demolition or substantive works to 20 Somersall Lane shall be carried until a European Protected Species licence has been obtained from Natural England, plus all additional survey work considered necessary to inform the licence application has been undertaken. Upon receipt of a licence from Natural England/site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in section 4.18 of the Bat Survey (August 2022) prepared by Armstrong Ecology and amended as necessary based on the results of the additional surveys. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence/confirmation of registration will be submitted to the LPA once granted. A copy of the results of any monitoring works will be submitted to the LPA.

Reason: In order to ensure no harm to any bat roost in accordance with policy CLP16 of the Adopted Local Plan.

4. Prior to building works commencing above foundation level, a biodiversity enhancement plan shall be submitted to and approved in writing by the LPA to aim to achieve a net biodiversity gain, in accordance with the NPPF 2021. The plan should be in accordance with the measures outlined in the Preliminary Ecological Appraisal (May 2022) and Bat Survey (August 2022) prepared by Armstrong

Ecology. Integrated boxes should be favoured to provide long-lasting, discreet and secure nesting and roosting opportunities. Boxes shall be attached at eaves level, with bird boxes avoiding south facing elevations. Photographs of the boxes in situ shall be submitted to fully discharge the condition.

Reason: In the interests of biodiversity in accordance with policy CLP16 of the Adopted Local Plan.

5. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. 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.

Reason: Reason: In the interests of ecology in accordance with policy CLP16 of the Adopted Local Plan.

6. At the commencement of operations on site (excluding demolition/site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

7. The premises, the subjects of the application, shall not be occupied until space has been provided within the application site generally in accordance with the application drawings for the parking of resident's vehicles (each space measuring a minimum of 2.4m x 5.5m), 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 in accordance with policy CLP22 of the Adopted Local Plan.

8. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees on and off the site, in accordance with

BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

a) A specification for protective fencing or ground protection to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.

b) Tree protection during demolition and construction indicated on a TPP and construction activities clearly identified as prohibited in this area.

c) Detailed protection measures for the trees to the frontage of the site within the highway verge and Somersall Conservation Area.

The development thereafter shall be implemented in strict accordance with the approved details.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990 and in accordance with policy CLP16 of the Adopted Local Plan.

9. Notwithstanding the submitted information and prior to first occupation of the development hereby approved, details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

a) a scaled plan showing vegetation to be retained and trees and plants to be planted:

b) proposed hardstanding and boundary treatments, to include hedgehog holes

c) a schedule detailing sizes and numbers of all proposed trees/plants

d) Sufficient specification to ensure successful establishment and survival of new planting.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees on and off the site unless agreed in writing by the Local Planning Authority.

Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or

diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with policies CLP16 and 20 of the Adopted Local Plan.

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

Reason: In the interest of satisfactory and sustainable drainage in accordance with policy CLP13 of the Adopted Local Plan.

11. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:
 - i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
 - ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker .

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal in accordance with policy CLP13 of the Adopted Local Plan.

12. Notwithstanding the submitted elevation plans; details; including samples, of all facing materials, including brick, render, heads and cills along with details of eaves, verges, windows, doors, (including garage doors) colours and finishes shall all be submitted to and agreed in writing by the Local Planning Authority. Work shall be completed in accordance with the agreed details.

Reason: To ensure an appropriate finished form of development in accordance with Policy CLP20 of the Adopted Local Plan.

13. 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.

14. Prior to works on the hereby approved building(s) and land being commenced a scheme detailing the existing and proposed land levels of the site including site sections, spot heights, contours and the finished floor levels of all buildings with reference to on and off site datum point and their relationship to existing neighbouring buildings and land, to align with the proposed street scene plan shall be submitted to and approved by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

Reason: To ensure an appropriate finished form of development in accordance with policies CLP14 and 20 of the Adopted Local Plan.

15. a) Prior to installation, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing the proposed lighting scheme.
b) All works shall be fully implemented in accordance with the approved scheme prior to occupation.

Reason: To ensure that the development does not appear as an unduly prominent feature in the area and in the interests of bat habitats in accordance with policy CLP16 of the Adopted Local Plan.

16. a) Prior to the development hereby permitted being occupied the upper floor side elevations windows shall be installed with obscure glazing in accordance with the elevation plan for each plot define in condition 2 above. The obscure glazing shall be obscured to a minimum of Pilkington - Privacy Level 3 or an equivalent product.
b) Once installed the glazing shall be retained as such thereafter.

Reason: To safeguard the privacy and amenities of the future occupiers of adjoining properties in accordance with policy CLP14 of the Adopted Local Plan.

17. Prior to the commencement of development, a statement shall be submitted to and agreed in writing by the Local Planning Authority setting out how the development will address matters of climate change through the construction and occupation stages of the development.

Reason: To ensure that climate matters are fully considered in the construction and occupation of the dwellings in line with policy CLP20 of the Adopted Local Plan.

Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

2. Coal Authority Standing Advice:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

3. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

4. Highway informative:

a. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

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

5. Yorkshire Water Notes for the Developer:

i) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he/she should contact our Developer Services Team (telephone 03451 208 482, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption – a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.