



Please ask for Charlotte Kearsey
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The Chair and Members of Planning
Committee

Councillors Ludlow and Parsons –
Site Visit 1
Councillors Hollingworth and Rayner -
Site Visit 2
Councillors Brunt and Dickinson –
Site Visit 3

10 November 2017

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on MONDAY, 20 NOVEMBER 2017 at 3.00 pm in Committee Room 1, Town Hall, Rose Hill, Chesterfield S40 1LP, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

PLEASE NOTE THAT THE MEETING WILL BE PRECEDED BY THE FOLLOWING SITE VISITS.

Planning Committee Members should assemble in Committee Room 1 at 13:05. Ward members wishing to be present should attend on site as indicated below:-

1. 13:20 51 Chesterfield Road, Chesterfield
CHE/17/00661/FUL

2. 13:40 Cammac site, Dunston Road, Chesterfield
CHE/17/00326/REM

3. 14:10 46 Newbold Road, Chesterfield
CHE/17/00421/FUL

Members are reminded that only those attending on site will be eligible to take part in the debate and make a decision on these items. Members intending to declare a Disclosable Pecuniary Interest, or any other matter which would prevent them taking part in discussions on an item, should not attend the site visit for it

Ward members are invited to attend on site and should confirm their attendance by contacting Charlotte Kearsey on tel. 01246 345236 or via e-mail: committee.services@chesterfield.gov.uk by 9.00 a.m. on Monday 30 November, 2017. If you do not confirm your attendance, it will be assumed that you will not be attending on site.

Please ensure that all mobile phones are switched off during site visits and at the meeting at the Town Hall.

1. Apologies for Absence
2. Declarations of Members' and Officers' Interests Relating to Items on the Agenda
3. Minutes of Planning Committee (Pages 5 - 34)
4. Applications for Planning Permission - Plans Determined by the Committee (Pages 35 - 142)
5. Applications for Planning Permission - Plans Determined by the Development Management and Conservation Manager (P140D) (Pages 143 - 158)
6. Applications to Fell or Prune Trees (P620D) (Pages 159 - 166)
7. Appeals Report (P000) (Pages 167 - 180)
8. Enforcement Report (P410) (Pages 181 - 186)
9. Diversion of Public Rights of Way (footpaths) at Loundsley Green Estate, Chesterfield (Pages 187 - 198)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Sandy', written in a cursive style.

Local Government and Regulatory Law Manager and Monitoring Officer

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PLANNING COMMITTEE

Monday, 30th October, 2017

Present:-

Councillor Brittain (Chair)

Councillors Hill T Gilby Callan Elliott Simmons Caulfield Miles	Councillors Davenport P Barr Brady Wall Bingham Sarvent
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*Matters dealt with under the Delegation Scheme

The following site visits took place immediately before the meeting and were attended by the following Members:

CHE/17/00327/FUL - Erection of motor retail dealership comprising motor vehicle sales showroom, motor vehicle maintenance workshop and ancillary rooms, detached valet building, formation of access roads and associated hard and soft landscaping (revised plans received 24/08/2017) at Vertu Landrover, Discovery Way, Whittington Moor, Chesterfield, Derbyshire, S41 9EG for Vertu Motors plc.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Caulfield, Davenport, Elliott, T Gilby, Hill, J Innes (ward member), P Innes (ward member), Miles, Sarvent, Simmons and Wall.

CHE/17/00625/COU – Full Planning application for the change of use to a hand car wash at Unit 2, Whitting Valley Road, Old Whittington, Chesterfield, Derbyshire for Mr Majed Ali.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Caulfield, Davenport, Elliott, T Gilby, Hill, J Innes (ward member), P Innes (ward member), Miles, Sarvent, Simmons and Wall.

CHE/17/00209/FUL – Proposed – Demolition of existing buildings and structures (Sunday School building retained); and erection of a food store and creation of new/alterations to existing accesses with associated parking, servicing and landscaping (revised details received on 24/04/2017, 04/05/2017, 15/06/2017, 28/06/2017, 13/07/2017, 07/08/2017, 08/08/2017, 14/08/2017, 04/09/2017 and 04/10/2017) at Perrys Group (Ford), Chatsworth Road, Chesterfield, Derbyshire, S40 2BJ for LIDL UK GMBH.

Councillors P Barr, Bingham, Brady, Brittain, Callan, Caulfield, Davenport, Elliott, Falconer (ward member), T Gilby, Hill, Miles, Sarvent, Simmons and Wall.

71 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Catt.

72 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA

No declarations of interest were received.

73 MINUTES OF PLANNING COMMITTEE

RESOLVED -

That the Minutes of the meeting of the Planning Committee held on 9 October, 2017 be signed by the Chair as a true record.

74 APPLICATIONS FOR PLANNING PERMISSION - PLANS DETERMINED BY THE COMMITTEE

*The Committee considered the under-mentioned applications in light of reports by the Development Management and Conservation Manager and resolved as follows:-

CHE/17/00209/FUL - PROPOSED - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES (SUNDAY SCHOOL BUILDING RETAINED); AND ERECTION OF A FOOD STORE AND CREATION OF NEW/ALTERATIONS TO EXISTING ACCESSES WITH ASSOCIATED PARKING, SERVICING AND LANDSCAPING (REVISED DETAILS

RECEIVED ON 24/04/2017, 04/05/2017, 15/06/2017, 28/06/2017, 13/07/2017, 07/08/2017, 08/08/2017, 14/08/2017, 04/09/2017 AND 04/10/2017) AT PERRYS GROUP (FORD), CHATSWORTH ROAD, CHESTERFIELD, DERBYSHIRE, S40 2BJ FOR LIDL UK GMBH

In accordance with Minute No.299 (2001/2002) Mr A Meikle (objector), Ms L Hopkinson (objector) and Mr C Darley (agent of applicant), addressed the meeting.

That the officer recommendations be upheld and the application be approved subject to the following conditions:-

(A) Time Limit etc

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Site Location Plan 1831 P401
- Proposed Site Plan 1831 P409 REV F
- Proposed Surfacing Plan 1831 P411 REV D
- Proposed Boundary Treatments Plan 1831 P412 REV D
- Landscape Details R-1972-2B
- Landscape Masterplan R-1972-1B
- Proposed Elevations 1831 P202
- Proposed Floorplans 1831 P102
- Design and Access Statement
- Planning and Retail Statement
- Ecology Report
- Geo-environmental Appraisal and Additional Ground Reports
- Flood Risk Assessment and Flood History
- Transport Assessment and Travel Plan
- Noise Impact Assessment
- Drainage Strategy (revised 04/05/2017)
- Heritage Statement
- Tree Survey
- Statement of Community Involvement
- Archaeological Desk-Based Assessment (submitted 28/06/2017 and updated 08/08/2017)

- Transport Assessment Addendum (submitted 01/08/2017)
- Bat Surveys (submitted 14/08/2017)
- S106 Pro-Rata Calculation – Highways

Drainage

3. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

4. No building or other obstruction including landscape features shall be located over or within 3.0 (three) metres either side of the centre line of the 100mm/150mm/225mm/450mm/525mm sewers i.e. a protected strip width of (6) metres, that traverse the site, and no building or other obstruction including landscape features shall be located over or within 4.0 (four) metres either side of the centre line of the 450mm sewer i.e. a protected strip width of (8) metres. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.

5. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

6. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Site Investigations

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

remediation/stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Ecology/Lighting

8. Prior to the installation of any external lighting a detailed lighting strategy shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.

This is to ensure that a sensitive lighting strategy is designed in line with guidance within Paragraph 125 of the NPPF.

9. Prior to occupation a detailed enhancement strategy that provides details of enhancement measures for bats and nesting birds shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.

Land Condition/Contamination

10. A. In accordance with the recommendations of the Geo-environmental Appraisal and Additional Ground Reports (prepared by HBPW LLP September 2016 and GD Pickles Ltd dated December 2016 submitted with the application) no development shall commence, with the exception of the demolition of the existing buildings on site, until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

i. Further site investigation/Phase 2 report (as recommended in the Geo-environmental Appraisal and Additional Ground Reports) to establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the submitted studies, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

ii. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include

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

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

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

Highways

11. Before any other operations are commenced detailed designs for the proposed vehicular and pedestrian access arrangements shall be submitted to the Local Planning Authority for written approval.

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

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

13. Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/modified in accordance with the approved designs, the subject of Condition 11 above, all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m

in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

14. All existing vehicular and pedestrian accesses to the existing highway made redundant as a result of the proposed development shall be permanently closed with a physical barrier and the footway reinstated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

15. No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/loading and unloading/manoeuvring of staff/customers/service and delivery vehicles (including secure/covered cycle parking), located, designed, laid out and constructed all in accordance with a scheme first submitted to and agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

16. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, each phase of development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

17. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall be locked in an open position whilst ever any operations are ongoing on site. Any gates shall also open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

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

19. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be

undertaken and completed prior to the first use of the access and retained as such thereafter.

20. No building or use hereby permitted shall be occupied or the use commenced until the Framework Travel Plan (as submitted) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been updated to meet site specific operational requirements, and has been submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plans shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Others

21. Construction work (inc. demolition works) shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

22. Deliveries to the food store shall only be made between the hours of 07.00am and 11.00pm Monday to Saturday and between the hours of 08.00am and 5.00pm Sundays/Public Holidays.

23. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

24. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, details of a soft landscaping scheme for the approved development shall be submitted to the Local Planning Authority for consideration.

The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall be carried out in accordance with the implementation programme.

25. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

26. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.

Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the building.

27. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

28. Development shall not commence until a scheme to provide a shared cycle / footpath connection from the new store cycle park through to Goyt Side Road has been submitted to the Local Planning Authority for consideration. The shared connection route shall be solid bound surfaced and lit. The details agreed in writing by the local planning authority shall be implemented on site and be available for use prior to the store hereby approved being opened. Thereafter the route shall be maintained fit for purpose and free from any impediment to its intended use. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

(B) That a CIL Liability Notice be served for £31,280 as per section 5.9.1 of the officer's report.

(C) That a S106 agreement be negotiated and signed concurrent with the planning permission and relating to:

- Percent for Art scheme (up to 1% of development costs);
- Appointment of a Management Company to manage and maintain any drainage infrastructure and highways which are not adopted; and
- Highway Contributions consisting of:
 - Off-site maximum highway mitigation contribution of £2,650 for modification of the junction of Chatsworth Road with Factory Street.
 - Maximum funding of £5000 for investigation into, and any subsequent implementation of, modifications to existing Traffic Regulation Orders.
 - Trigger points for payment of contributions.
 - Extent of network over which contributions can be applied.
 - Indexation, draw-down arrangements and location of account.
 - Timeframe over which funds will be available.
 - Accumulation of contribution with other developer or public funds.
 - Travel Plan monitoring contribution sum of £1,000 per annum for 5 years to a maximum of £5,000.

CHE/17/00625/COU - FULL PLANNING APPLICATION FOR THE CHANGE OF USE TO A HAND CAR WASH AT UNIT 2, WHITTING VALLEY ROAD, OLD WHITTINGTON, CHESTERFIELD, DERBYSHIRE FOR MR MAJED ALI

In accordance with Minute No.299 (2001/2002) Ms S Law (on behalf of the applicant) addressed the meeting.

That the officer recommendation be upheld and the application be approved subject to the following conditions:-

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans, with the exception of any approved non material amendment.
3. Prior to the facility being brought into use, the applicant shall submit a scheme to the local authority for written approval showing parking, turning, bin storage/dwell area and means to prevent water from escaping out onto the public highway. The approved details shall be implemented in full prior to the proposed car wash facility being brought into use.
4. No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-
 - a) evidence of existing positive drainage to public sewer and the current points of connection; and
 - b) the means of storing and attenuating the restricting the surface water discharge to public sewer have been submitted to and approved by the Local Planning Authority. Furthermore, unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.
5. Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel , areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network.
6. No development shall take place until amended drainage details have been submitted to the local authority for approval in writing. The submitted details shall show the following;
 - a) foul and surface water drainage proposals both on and off site;

- b) evidence of existing impermeable areas positively draining to the public sewer to prove rate of discharge; and
- c) surface water storage and the flow control rate.

CHE/17/00327/FUL - ERECTION OF MOTOR RETAIL DEALERSHIP COMPRISING MOTOR VEHICLE SALES SHOWROOM, MOTOR VEHICLE MAINTENANCE WORKSHOP AND ANCILLARY ROOMS, DETACHED VALET BUILDING, FORMATION OF ACCESS ROADS AND ASSOCIATED HARD AND SOFT LANDSCAPING (REVISED PLANS RECEIVED 24/08/2017) AT VERTU LANDROVER, DISCOVERY WAY, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE S41 9EG FOR VERTU MOTORS PLC

That the officer recommendations be upheld and the application be approved subject to the following conditions:-

(A) Time Limit etc

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Proposed Site Plan - 2711(PL)05.RevB
- Proposed GF and FF Plans – 2711(PL)06.RevB
- Proposed Elevations – 2711(PL)07.RevB
- Indicative 3D Visualisation – 2711(PL)08
- Proposed Valet – 2711(PL)09
- Proposed Drainage - 119669/2003
- Proposed Site levels and Drainage H132-103 Rev C
- CCTV Plan – Q1758-R1
- Design and Access Statement (prepared by McLaren Murdoch & Hamilton Chartered Architects April 2017)
- Flood Risk Assessment (prepared by Fairhurst August 2017)
- Coal Mining Risk Assessment (prepared by Fairhurst August 2017)
- Due Diligence Report (prepared by Remedios March 2016)

Site Investigations

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

Land Condition/Contamination

4. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.

I. A desktop study/Phase 1 report documenting the previous land use history of the site.

II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.

III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.

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

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

Highways

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

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

6. Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/modified in accordance with the approved designs all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

7. No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/loading and unloading/manoeuvring of staff/customers/service and delivery vehicles (including secure/covered cycle parking), located, designed, laid out and constructed all in accordance with a scheme first submitted to and agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

8. The development hereby permitted shall not be occupied until the cycle parking facilities have been fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Landscaping

9. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.

Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

Other

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

11. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

12. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

(B) That a S106 agreement be negotiated and signed concurrent with the planning permission and relating to:

- Percent for Art scheme (up to 1% of development costs).

75 **BUILDING REGULATIONS (P880D)**

No report was submitted for consideration.

76 APPLICATIONS FOR PLANNING PERMISSION - PLANS DETERMINED BY THE DEVELOPMENT MANAGEMENT AND CONSERVATION MANAGER (P140D)

*The Development Management and Conservation Manager reported that pursuant to the authority delegated to him, he had determined the under-mentioned applications subject to the necessary conditions:-

(a) Approvals

- | | |
|------------------|---|
| CHE/17/00334/FUL | Replacement of the existing window units and the proposed installation of 2 No. personnel doors on the east facing elevation. Accompany to prior notification submission for conversion of vacant building to residential use CHE/17/00230/TCU at 10B Marsden Street Chesterfield S40 1JY for ASW Consultants LTD |
| CHE/17/00436/FUL | Installation and operation of a back-up electricity generation facility at land at Whittington Road Barrow Hill Chesterfield for Mercia Power Response |
| CHE/17/00464/COU | Change of use of vacant shop to dwelling at Killis Cleaners 29 Sheffield Road Stonegravels Chesterfield S41 7LR for Mr Chelvagumar Maharaja |
| CHE/17/00475/FUL | Conversion of the existing D2 Leisure Unit at 1-3 Knifsmithgate, Chesterfield, to create 10 residential dwellings at first and second floor at 1 - 3 Knifsmithgate Chesterfield S40 1RF for MJ Developments (Chesterfield) Ltd |
| CHE/17/00492/FUL | Change of use of former open land to garden curtilage and erection of boundary wall and gates at Spring House 147 Burnbridge Road Old Whittington S41 9LT for Mrs Mary Burkitt |
| CHE/17/00498/FUL | Extension to create garage, kitchen, bedroom/en suite and cloakroom at 21 Millstream Close Walton |

S40 3DS for Mr Lee Hancock

- CHE/17/00518/FUL Basement store and ground floor rear kitchen extension to existing takeaway together with rear first floor extension to existing living accommodation. Amended plans received 22.09.2017 at 187 Sheffield Road Stonegravels Chesterfield S41 7JQ for Mr Michael Zhuhuanhuang
- CHE/17/00521/FUL Renovation works and minor external alterations to existing building together with change of use at ground floor from a dental surgery back to a dwelling-house at 50 Highfield Lane Newbold S41 8AY for Clark Properties
- CHE/17/00530/FUL Extension to lounge and porch at front of property at 196 Ashgate Road Chesterfield S40 4AL for Mr and Mrs Warrilow
- CHE/17/00537/FUL Single storey rear extension and new garage roof at 8 Netherfield Road Somersall S40 3LS for Mr Malcolm Heeley
- CHE/17/00543/ADV New signage - amended plans received 25/09/2017 at land off Braidwood Way north of Byron Street Birdholme for Perrys Ford
- CHE/17/00544/FUL Proposed first floor side extension and alterations to front garage roof at 39 Holme Park Avenue Upper Newbold S41 8XB for Dr T Bendinger
- CHE/17/00549/FUL Small ground and first floor extension at the rear of the property, in brick (to match existing as close as possible) with concrete tile roof at 63 Norwood Avenue Hasland S41 0NN for Mr David Keeton
- CHE/17/00552/FUL Single storey rear extension and creation of rooms in the loft space at No. 16 Ivy Close and a single storey rear extension and single storey garage/sun room at No. 14 Ivy Close - Re-Submission of Planning Application CHE/16/00572/FUL at 14 - 16

	Ivy Close Old Whittington Chesterfield for Mr and Mrs Straw
CHE/17/00562/FUL	Remove conifer hedge and replace with 2m high fence at 73 Foljambe Avenue Walton S40 3EY for Mr David King
CHE/17/00563/FUL	Rear kitchen and bedroom extension at 29 Lindale Road Newbold S41 8JH for Mr David Reece
CHE/17/00565/MA	Material amendment to CHE/15/00283/FUL - installation of diesel/adblue point (90,000 litre) at Plot 1 South Markham Vale Employment Growth Zone Markham Lane Duckmanton for Great Bear Distribution Ltd
CHE/17/00568/FUL	Environmental improvements to the northern area of London Boroughs Estate, Barrow Hill. The improvements to include resurfacing road/parking courts, paving, street lighting and boundary treatments within the area identified as Phase 1 at London Borough Estate Barrow Hill Chesterfield for Chesterfield Borough Council
CHE/17/00570/MA	Material Amendment to CHE/13/00595/FUL (Part demolition of rear boundary wall and erection of 2 no.pairs of semi-detached houses) - to insert 3 additional windows and 1 French door into the east elevation of house D, plus inclusion of a projecting brick band course to all houses, and inclusion of a recessed window sized feature on the west elevation of house A at Barrow Hill Memorial Hall 3 Station Road Barrow Hill S43 2PG for Minotaur Construction Limited
CHE/17/00572/REM	Construction of a Use Class B2/B8 unit with ancillary (B1(a) offices, with associated access; parking and servicing area; engineering, landscaping and drainage works at Plot 6 Markham Vale Enterprise Way Duckmanton for Henry Boot Developments Ltd

- CHE/17/00578/REM Reserved Matters application of CHE/14/00556/OUT for a pair of semi-detached starter homes. Additional plans received 8.09.2017 and 05.10.2017 at 97 Station Road Old Whittington S41 9AW for Mr Peter Biddle
- CHE/17/00584/FUL First floor rear extension, single storey side extension and erection of a front porch at 139 Hunloke Avenue Boythorpe S40 3EA for Mr Matthew Reynolds
- CHE/17/00585/COU Proposed change of use of house to create 3 flats and retention of lower basement flat at 27 Albion Road Chesterfield S40 1LJ for Mr Paul Simmons
- CHE/17/00587/FUL Rear extensions and alterations at 24 Miriam Avenue Somersall S40 3NF for Mrs Carla Hakim
- CHE/17/00589/ADV Fascia signage to side elevation 2 (drawing ref no 04/05/01-02), Fascia signage to side elevation 1 (drawing ref no 04/05001-02), hanging sign to existing post/gantry. 4. Vinyl graphic signage to shop door at Dunston Inn Dunston Lane Newbold for Manvesh Enterprises Ltd
- CHE/17/00592/FUL Ground floor side and rear kitchen extension at 47 St Thomas Street Chesterfield for Mr Jamie Hall
- CHE/17/00595/FUL The construction of an enclosed tarmacadam drill/marching square, on an existing grassed area adjacent the sports hall including the provision of a metal storage container, with appropriate hard standing and new access path at Chesterfield College Infirmary Road Chesterfield S41 7NG for Mr Mike Thackery
- CHE/17/00598/NMA Non material amendment to CHE/17/00183/FUL (Alterations to existing house, including new side and rear extension to replace outbuildings, removal of garage and conservatory and new car port and decking area and new dormer to roof) to increase the size of the carport foundations and re-site

- carport 150mm north to maintain clearance to nearest tree at 45 Brockwell Lane Brockwell Chesterfield S40 4EA for Mr and Mrs Rix
- CHE/17/00602/FUL Two storey rear extension to existing split level property to form upper ground floor living room extension with balcony and lower ground floor 'sun-room' at 18 Rushen Mount Birdholme S40 2JU for Mr and Mrs Peter and Elsie Jenner
- CHE/17/00605/FUL Single storey front and side extension, two storey rear extension and raising of existing roof to create additional second floor accommodation at 70 Springfield Avenue Chesterfield S40 1HL for Whirlowbrook Properties Ltd
- CHE/17/00607/TPO Remove deceased Horse Chestnut Tree at 44 Oakfield Avenue Chesterfield Derbyshire for Mr John Boden
- CHE/17/00617/FUL Two storey side extension, single storey rear extension and detached garage. Revised plans received 25 September 2017 at 40 Mansfeldt Road Newbold S41 7BW for Mr J Bedford
- CHE/17/00622/FUL Demolition of an existing glazed structure and erection of a single storey extension with glazed roof at rear of the property at 132 Hady Hill Hady S41 0EF for Mrs Natasha Wilding
- CHE/17/00631/FUL Erection of a timber balcony to the rear elevation at 45 Woodmere Drive Old Whittington S41 9TE for Mr and Mrs Martin and Jacky Hornsby
- CHE/17/00649/FUL Entrances to serve lower ground floors to York House, St Marys Gate at York House St Marys Gate Chesterfield S41 7TH for CP/JL and CA Bown
- CHE/17/00711/TPO T1 - Spruce - Fell because of included bark on the twin stem of the tree T2 - Willow - Lower broken stem by approx 2m and reduce stem on opposite

side of the tree at 14 Florence Close Birdholme
S40 2JL for Mr Holden

CHE/17/00732/TPO Crown clean and lift on beech tree and crown clean and removal of 1 lower branch on Ash tree at land adjacent to 130 Station Road Brimington for Ms Chris Handley

(b) Refusals

CHE/17/00551/FUL Construction of single storey garage/store to front of property at 61 Lindale Road Newbold S41 8JH for Mr Darren Pugh

CHE/17/00564/DOC Proposed two storey side extension at 9 Purbeck Avenue Brockwell S40 4NP for Mr Chris Armstrong

(c) Discharge of Planning Condition

CHE/17/00522/DOC Discharge of planning conditions 3 (materials) and 4 (surface water drainage) of CHE/16/00233/FUL - two storey rear and side extension at 8 Bower Farm Road Old Whittington S41 9PP for Mr and Mrs White

CHE/17/00545/DOC Discharge of condition 4 (landscaping scheme) and condition 6 (surface water drainage) of CHE/14/00022/FUL. Proposed use of land for the privatekeeping and exercising of horses and construction of an all weather riding area - additional information received 22/9/17 at 34 Chesterfield Road Staveley S43 3QF for T and G Hart

CHE/17/00576/DOC Discharge of planning conditions 3, 5, 6, 7, 9, 19, 25, 26 and 34 of CHE/16/00518/FUL - Residential development comprising 55 dwellings, access, landscaping and associated works at site of former Newbold Community School Newbold Road Newbold for Miller Homes

- CHE/17/00582/DOC Discharge of planning conditions 21, 22 and 23 of CHE/16/00086/FUL and as amended by revised plans received 3.10.17 and 4.10.17 at land off William Street North Old Whittington for Positive Homes Ltd
- CHE/17/00603/DOC Discharge of condition 3 (surface water drainage), 4 (drainage systems), 5 (coal mining report), 6 (Enhancement strategy), 7 (materials) and 9 (operations plan) of CHE/16/00806/FUL - Demolition and re-building and extension of abandoned cottage at Ponds Yard Farm Renishaw Road Mastin Moor S43 3DW for Mr and Mrs Lee
- CHE/17/00604/DOC Discharge of condition 3 (materials) of CHE/16/00589/FUL - rear single storey extension with second storey side extension and internal alterations at Ponds Yard Farm Renishaw Road Mastin Moor S43 3DW for Mr and Mrs Lee
- CHE/17/00719/DOC Discharge of Condition 8 of CHE/14/00380/OUT at Ringwood Centre Victoria Street Brimington S43 1HY for Rockcliffe Homes Ltd

(d) Conditional Permission Extension of Time

- CHE/17/00500/FUL Construction of hardstanding 5m x 5m on the front of the property. This will require raising the land level by up to 560mm, surrounded by a retaining wall to bring the hardstanding to the same level as the highway at 21 Willow Drive Mastin Moor S43 3AU for Mr Robin Hadfield

(e) Prior notification approval

- CHE/17/00553/TEL Proposed telecommunication installation and associated works for EE UK Ltd and H3G UK at Unit 2A Foxwood Road Sheepbridge S41 9RF for EE UK Ltd and H3G UK

(f) Prior notification approval not required

CHE/17/00672/TPD Large conservatory to rear of property at 27 Enfield Road Newbold S41 7HN for Mr O'Hara

77 APPLICATIONS TO FELL OR PRUNE TREES (P620D)

*The Development Management and Conservation Manager reported that pursuant to the powers delegated to him he had determined the under-mentioned applications in respect of:-

(a) The felling and pruning of trees:-

CHE/17/00554/TPO Consent is refused to the crown reduction of two trees reference T1 Beech and T2 Lime, consent is granted to the crown thinning of T1 Beech and to crown lift and reduce branches around the telephone wire of T2 Lime on the Order map for A&J Arb Access on behalf of Mr Hawgood of 16 Gladstone Road, Chesterfield.

CHE/17/00608/TPO Consent is granted to the pruning of two trees reference T3 and T4 London Plane on the Order map for Mr Moore of 1 Fenland Way, Walton, Chesterfield.

CHE/17/00588/TPO Consent is granted to the pruning of 16 trees reference T1 and T20 Sycamore, T2 – T4 Ash, T6, T23 and T24 Horsechestnut, T7 Hawthorn, T8 Beech, T9, T10, T12 and T27 Lime and 2 Sycamore trees within G1 on the Order map for Derby Diocesan Board of Finance Ltd at the Rectory, Church Street, Staveley, Chesterfield.

CHE/17/00643/TPO Consent is granted to the felling of 6 dead/dangerous trees and the pruning of 1 Sycamore tree within W1 on the Order map for Derbyshire County Council Highways in the wooded area off Hady Hill, Chesterfield.

The duty to replant has been dispensed with on this occasion due to natural regeneration

within the wood.

- CHE/17/00643/TPO Consent is granted to the pruning of two trees reference T1 Plum and T2 Oak on the Order map at 30 Devonshire Street, Brimington for Mr Salt.
- CHE/17/00683/TPOEXP Consent is granted to the felling of one storm damaged Sycamore tree reference T18 on the Order map for Mr Pocock of 73 Hady Hill, Hady, Chesterfield.
- The duty to plant a replacement tree has been dispensed with on this occasion due to the tree's location and lack of amenity value in the rear garden.
- CHE/17/00646/TPO Consent is granted to the pruning of two trees reference T20 Oak and T21 Beech on the Order map for Mr and Mrs Yates of 68 Mansfield Road, Hasland, Chesterfield.
- CHE/17/00606/TPO Consent is granted to the pruning of one Horsechestnut tree reference T14 on the Order map for Heathscapes on behalf of Mr Alan Kirk of 7 Upland Rise, Walton, Chesterfield.
- CHE/17/00636/TPO Consent is granted to the pruning of 3 Sycamore trees reference T3-T5 on the Order map for Mr Andrew Watson of 10 Cragside Close, Piccadilly, Chesterfield.
- CHE/17/00732/TPO Consent is granted to the pruning of 2 trees reference T1 Copper Beech and T2 Ash on the Order map for Ms Chris Hadley of 115 Station Road, Brimington, Chesterfield.
- CHE/17/00607/TPO Consent is granted to the felling of one Horsechestnut tree reference T3 on the Order for Mr John Boden of 44 Oakfield Avenue, Chesterfield.

The replacement tree is to be a Sweet Gum and planted on the south boundary of the rear garden where its visual amenity will be greater.

CHE/17/00711/TPO

Consent is granted to the felling of one Silver Fir tree reference T26 and the pruning of one storm damaged Willow tree reference T9 on the Order for Mark Whatley Tree Services on behalf of Mr Holden of Green Acres, Florence Close, Chesterfield.

The duty to plant a replacement tree has been dispensed with on this occasion due to other trees on the river banking.

CHE/17/00677/TPO

Consent is granted to the pruning of 1 Lime tree reference T1 on the Order map for Mr Markus of 48 Cobden Road, Chesterfield.

CHE/17/00665/TPO

Consent is granted to the felling of one Pear tree reference T53 and the pruning of 53 trees reference TT1-T9, T11-T44, T46-T51, T54, T58, T60-T61, T63-T64, and G1 and G2 on the Order for Ken Portas Tree Services for Broomhouse, Broomhill Road, Old Whittington, Chesterfield.

The replacement tree is to an Oak and planted as near as is reasonably possible to the original tree or agreed alternative.

CHE/17/00671/TPO

Consent is granted to the pruning of 3 trees reference T24 Silver Birch, T25 Chestnut and T26 Lime on the Order map for Mr Peter Passmore of 42 Netherleigh Road, Chesterfield.

(b) Notification of Intent to Affect Trees in a Conservation Area

CHE/17/00596/CA

Agreement to the felling of small self-

The felling/pruning of trees for The Derby Diocesan Board of Finance Ltd at The Rectory, Church Street, Staveley.

set trees within 3 groups and the pruning of 4 individual trees. The felling and pruning of the trees will have no adverse effect on the amenity value of the area.

The trees are within the Staveley Conservation Area and the applicant wishes to prune/fell the trees to clear the boundary retaining wall/fences and public highway.

CHE/17/00694/CA
The felling/pruning of trees for Tomlinson Tree Surgeons at 408 Chatsworth Road, Brampton.

Agreement to the felling of one Poplar tree and pruning back away from the building of various trees. The felling and pruning of the trees will have no adverse effect on the amenity value of the area.

The trees are within the Chatsworth Road Conservation Area and the applicant wishes to fell one Poplar tree which has recently come down in the storms and landed on the Screwfix building adjacent.

CHE/17/00738/CA
The pruning of 2 Lime trees and 1 Horsechestnut tree for St Thomas Church, Chatsworth Road, Brampton.

Agreement to the crown lifting by 5.2 metres of 3 trees. The pruning of the trees will have no adverse effect on the amenity value of the area.

The trees are within the Chatsworth Road Conservation Area and the applicant wishes to prune the trees as they are blocking the speed camera.

CHE/17/00660/CA
The felling/pruning of trees for Derbyshire County Council Highways in the grass verge at Somersall Lane, Somersall.

Agreement to the felling of 1 tree and pruning of 6 trees. The felling/pruning of the trees will have some effect on the amenity value of the area however in mitigation 2 new Oak trees are to be planted in the grass

verge near to the trees outside 31 & 64 Somersall Lane.

The trees are within the Somersall Lane Conservation Area and the applicant wishes to fell one Sycamore adjacent 31 Somersall Lane due to large wound and infected with fungus. The crown reduction of one Horsechestnut outside 15 Somersall Lane due to branch failure and one Oak outside 46 Somersall Lane which is infected with the fungus Ganoderma which causes root decay. 3 Oak trees are also to be dead wooded and one Sycamore is to have the basal growth removed.

CHE/17/00698/CA
The felling/pruning of trees for Mrs Margaret Speed at Chesterfield Labour Club, Saltergate.

Agreement to the felling of two trees and the reduction of vegetation along the eastern boundary and the pruning of two trees on the western boundary to clear the fire escape. The felling/pruning of the trees will have no adverse effect on the amenity value of the area.

The trees are within the Town Centre Conservation Area and the applicant wishes to fell one dead Elm tree and one Ornamental fruit tree which is supressed with Ivy. The applicant also wishes to reduce the vegetation along the eastern boundary back to hedge height and prune back one Laburnum and one Cherry which is encroaching onto the fire escape on the western boundary.

The Development Management and Conservation Manager reported on the current position in respect of appeals which had been received.

***RESOLVED -**

That the report be noted.

79 ENFORCEMENT REPORT (P410)

The Local Government and Regulatory Law Manager and the Development Management and Conservation Manager submitted a joint report on the current position regarding enforcement action which had been authorised by the Council.

***RESOLVED -**

That the report be noted.

80 REVIEW OF DELEGATION SCHEME AND PLANNING COMMITTEE PROCEDURES

The Development Management and Conservation Manager submitted a report on a review of the Council's agreed delegation scheme relating to application determination and planning committee procedures including public speaking and site visits.

The report set out the government approach and expectations to planning performance and decision making and included an analysis of planning decisions over the last three years along with comparisons with other Derbyshire authorities' delegation schemes.

*** RESOLVED**

That it be recommended to the Cabinet Member for Economic Growth:

- (1) That the delegation scheme be amended to include the following addition for determination by the Planning Committee:
'Where a local MP makes a written or e-mail request for any application to be considered by planning committee.'

- (2) That the general reference to objectors in the existing scheme be amended as follows:

Col 1 – Planning Committee	Col 2 – Delegated Officers
Where five or more objections are received to the proposal.	Where up to four objections are received to the proposal or where <ul style="list-style-type: none"> • the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or • the substance of all objections received does not constitute any material planning consideration.

- (3) That the delegation reference at P760D concerning EIA Development be changed to the Development Management & Conservation Manager and be updated to include the latest regulations as follows:
in connection with any application for planning permission, to carry out any function of the Council as local planning authority under the TCP (Environmental Impact Assessment) Regulations 2017, including:
- determining whether any development is Environmental Impact Assessment development;
 - requiring an Environmental Statement.
- (4) That the Planning Committee site visits guidance note and the Planning Committee procedures guidance note be amended as attached at Appendix A and B to the report.

The Development Management and Conservation Manager submitted a report to consider works undertaken in relation to the 2014 Stopping Up Order which closes and diverts the bridleway and footpaths crossing the Peak Resort site and the creation of new routes on the site perimeter and to consider the need for a further Diversion Order.

The report outlined work undertaken on the footpath and bridle path diversions undertaken since the Stopping Up and Diversion Order had been made in December 2014 and confirmed in 2015 and referred to counsel's opinion on certification of the Stopping Up Order. The report also detailed issues in respect of the proposed further diversion of the bridle path route to Sheffield Road to enhance safe access.

*** RESOLVED**

- (1) That the Chesterfield Borough Council - The Peak Resort Site, Unstone, Chesterfield (Bridleway BW39 (Part) and Public Footpaths FP40, FP41, FP43, FP44, FP45, FP47 and FP178 (Part) Public Path Stopping Up Order 2014 be certified as being satisfactorily provided;
- (2)
 - (a) That bridle route BR39 be diverted as described in the report, subject to agreement of the precise route being delegated to the Development Management and Conservation Manager, and subject to the carrying out of the statutory consultation exercise and;
 - (b) That any unresolved objections to the Order be considered by Planning Sub Committee and referred to the Secretary of State for a decision;
 - (c) If there are no unresolved objections to the Order that it be confirmed by the Local Government and Regulatory Law Manager.

Agenda Item 4

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	20 TH NOVEMBER 2017
TITLE	DETERMINATION OF PLANNING APPLICATIONS
PUBLICITY	*For Publication
CONTENTS SUMMARY	See attached index
RECOMMENDATIONS	See attached reports
LIST OF BACKGROUND PAPERS	For each of the attached reports, the background papers consist of the file specified in the top right hand corner on the front page of the report. Those background papers on the file which do not disclose exempt or confidential information are open to public inspection at the office of the Development Management and Conservation Manager – Planning Services. Additional background papers (if any) will be separately listed in the report.

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**INDEX TO DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER'S REPORT ON THE 20TH NOVEMBER 2017**

- ITEM 1** **CHE//17/00421/FUL - Resubmission of CHE/16/00591/FUL - Residential development of 12 units and associated ancillary works - Revised plans received 12/10/2017 at the Shrubberies, 46 Newbold Road, Newbold, Chesterfield, Derbyshire, S41 7PL for Peppermint rove Ltd**
- ITEM 2** **CHE/17/00661/FUL - Two semi-detached houses at 51 Chesterfield Road, Staveley, Chesterfield, Derbyshire, S43 3QG For Mr Michael Bellfield of Bellfield Construction.**
- ITEM 3** **CHE/17/00326/REM - Submission of Reserved Matters pursuant to planning approval CHE/15/00116/OUT for the development of 106 residential dwellings (revised details rec'd 25/09/2017, 10/10/2017, 13/10/2017, 27/10/2017, 01/11/2017, 07/11/2017 and 09/11/2017) at Camac Coal, Dunston Road, Chesterfield, Derbyshire, S41 9RL for Strata Homes Yorkshire Limited**

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Case Officer: Sarah Kay
Tel. No: (01246) 345786
Ctte Date: 20th November 2017

File No: CHE/17/00421/FUL
Plot No: 2/1192

ITEM 1

RESUBMISSION OF CHE/16/00591/FUL - RESIDENTIAL DEVELOPMENT OF 12 UNITS AND ASSOCIATED ANCILLARY WORKS - REVISED PLANS RECEIVED 12/10/2017 AT THE SHRUBBERIES, 46 NEWBOLD ROAD, NEWBOLD, CHESTERFIELD, DERBYSHIRE, S41 7PL FOR PEPPERMINT GROVE LTD

Local Plan: Unallocated
Ward: Brockwell

1.0 CONSULTATIONS

Local Highways Authority	Referred on 28/07/2017 but no further comments received
Strategic Planning Team	No comments received
Environmental Health Officer	Comments received 17/07/2017 – see report
Design Services	Comments received 03/08/2017 – see report
Economic Development Team	Comments received 01/08/2017 – see report
Yorkshire Water Services	No comments received
Derbyshire Constabulary	Comments received 18/07/2017 – no objections
DCC Strategic Planning	Comments received 07/08/2017 – see report
Lead Local Flood Authority	Comments received 25/07/2017 – see report
Coal Authority	Comments received 03/08/2017 – see report
Tree Officer	Comments received 22/08/2017 – refer to previous app. comments
C/Field Civic Society	Comments received 09/08/2017 – see report
Conservation Officer	Comments received 17/08/2017 – refer to previous app.

	comments
Urban Design Officer	No comments received
Derby & Derbyshire County Archaeologist	Comments received 01/08/2017 – no objections as proposals have no archaeological impact
Derbyshire Wildlife Trust	Comments received 09/08/2017 – see report
Care Commissioning Group	No comments received
Ward Members	No comments received
Site Notice / Neighbours	Ten letters of representation received

2.0 **THE SITE**

- 2.1 The application site (known locally as The Shrubberies, 46 Newbold Road) is a 0.4ha previously developed parcel of land located on the north western edge of Chesterfield Town Centre, positioned at the south side of the B6051 Newbold Road. It has previously been utilised as office accommodation for the NHS Primary Care Trust, featuring one building on site, parking and gardens which all remain in situ but are currently vacant. The site is enclosed with boundary walls to all adjoining aspects and features a number of mature trees which are all protected by Tree Preservation Order 4901.133.
- 2.2 Uses in the surrounding area represent a transition from the mixed uses of the town centre becoming more predominantly residential. To the north (on the opposite side of Newbold Road) there is a mix of commercial and residential properties which face the site and align Highfield Road. To the west are the rear elevations of neighbouring residential properties which front onto Cobden Road. To the south is the playing field of St. Mary's Catholic Primary School and to the east is the detached property St Joseph's which also currently lies vacant (but was recently operated as a residential care / support home).

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0193/0034 - Permanent change of use from residential to office accommodation. Conditional permission granted 18/03/1993.

- 3.2 CHE/1093/0622 - Outline application for erection of office building. Condition permission granted 10/02/1994.
- 3.3 CHE/0395/0146 - Extension to offices and alteration to car park. Application withdrawn 07/07/1995.
- 3.4 CHE/0597/0222 - Car parking provision for up to 14 vehicles. Conditional permission granted 25/06/1997.
- 3.5 CHE/1197/0584 - Waiver of condition 2 and 7 of CHE/597/222 relating to site entrance site entrance. Conditional permission granted 24/02/1998.
- 3.6 CHE/08/00413/TPO - Work to T4 Hawthorn, T14 Sycamore and T15 Oak and fell T11 & T12. Conditional permission granted 25/07/2008.
- 3.7 CHE/09/00202/TPO - T1-T10 Crown lift + reduce. Conditional permission granted 16/04/2009.
- 3.8 CHE/10/00012/FUL - Replace timber rear gates that face onto Cobden Road. Conditional permission granted 10/03/2010.
- 3.9 CHE/16/00591/FUL - Residential development of 13 units and associated ancillary works (correspondence received 11/10/2016 and revised plans / details received 13/10/2016, 22/11/2016, 07/12/2016 and 16/12/2016). Refused by Planning Committee on 10/01/2017 for the following reason:

1. *In the opinion of the local planning authority the loss of the existing building will result in the erosion of the character of the area to the detriment of the appearance of the local area. Furthermore the loss of protected trees will be detrimental to the character of the area having regard to the ecological and amenity contribution they provide. The local planning authority consider therefore that the development does not respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context and will therefore be at odds with policies CS9 and CS18 of the Core Strategy 2011-2031.*

The above refusal was the subject of an Appeal to PINS which was dismissed by an Inspector on 28/09/2017 for the following reasons:

I conclude that the development would result in significant harm upon the character and appearance of the area, due to the incompatible siting of Plot 13 which would have a harmful effect upon the health and longevity of protected Whitebeam (T3) and Beech (T5) trees that contribute high amenity value to the Newbold Road frontage. The proposal, therefore, would conflict with Policies CS9 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031 (CS), adopted July 2013. When taken together the policies seek that all development should identify, respond to and integrate with the character of the site and surroundings and the local distinctiveness of its context, including tree cover and an attractive interface between development boundaries and their surroundings. The policies are consistent with the National Planning Policy Framework (the Framework).

The proposal would not have a harmful effect upon biodiversity and I attribute positive weight to the social and economic benefits arising from the development of 13 new homes in an accessible location close to Chesterfield Town Centre. However, the harm upon the character and appearance of the area arising from the incompatible siting of the dwelling on Plot 13 resulting in a harmful effect on the long term health and longevity of Whitebeam (T3) and Beech (T5) trees on the Newbold Road frontage, is significant and overriding. The absence of harm in all other respects is a neutral factor. Consequently, the proposal would not result in sustainable development when considered relative to the development plan and the Framework as a whole.

This Appeal outcome was reported to Planning Committee at the last meeting held on 30th October 2017, under Agenda Item 8.

3.10 CHE/17/00059/DEM - Demolition of vacant/former office accommodation. Prior approval for method of demolition agreed on 03/04/2017.

4.0 **THE PROPOSAL**

4.1 The application submitted seeks full planning permission for the erection of 12 no. dwellings. The scheme detailed comprises of a courtyard one and half storey development of detached, semi-

detached and terrace properties served by a single shared access driveway to Newbold Road.

- 4.2 The scheme submitted adopts a contemporary design and the development focuses on a mono-pitched one and half storey concept around the courtyard development. Access into the site is maintained in its current location within the Newbold Road frontage but is subject to reconfiguration to maximise visibility and amendments are also detailed to the frontage boundary wall to Newbold Road, due to existing damage (weathering and structural).
- 4.3 The scheme comprises a mix of two and three bedroom properties, each which include at least 1 no. bedroom at GF level. House types B, C and D are detailed. All units are served by a single driveway parking space and a single integral garage space.
- 4.4 The application submission has been accompanied by the following list of plans / supporting documentation:
- PG.218516.LOC – Site Location Plan
 - PG.218516.101D Planning Layout
 - PG.218516.102D Landscaping Masterplan
 - PG.218516.103C Site Sections
 - PG.218516.104A Survey Block Plan Overlay
 - PG.218516.111B Type B Proposed Plans
 - PG.218516.112 Type C Proposed Plans
 - PG.218516.113 Type D Proposed Plans
 - PG.218516.115B Courtyard Block Elevations
 - PG.218516.116B Courtyard Block Elevations
 - PG.218516.119 Site Frontage Railings
 - PG.218516.SS Indicative Streetscene Visuals (1-5)
 - 21620_OGL-REV0 – Topographical Survey
 - TSC 01B Tree Survey
 - TSC 02B Tree Constraints Plan
 - TSC 03C Tree Protection Plan
 - TSC 04A Landscape Masterplans
 - PG.218516.DA Rev A - Design & Access Statement
 - Ecology Scoping Survey (prepared by Prime Environment) dated December 2016 and a Bat Climbing Inspection.
 - Phase 2 Geotechnical and Geo-environmental Site Investigation Report (prepared by Eastwoods & Partners) dated December 2016
 - Arboricultural Method Statement – Nov 2016

4.5 Revisions to the application were made on 12/10/2017 and this information was subject to re-consultation.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The site is situated within the built settlement of Brockwell in an area predominantly residential in nature. Having regard to the nature of the application policies CS2 and CS18 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.1.2 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national / local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

5.1.3 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.

In addition to the above, the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

5.1.4 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.

5.2 **Principle of Development**

5.2.1 The site the subject of the application is unallocated and is situated within the built settlement of Brockwell ward surrounded by a combination of residential properties and commercial properties which reflect the transition from the nearby town centre to the peripheral suburban residential areas.

5.2.2 Policies CS1 and CS2 of the Core Strategy set the Councils overall spatial strategy and the principles for the location of new development stating that all new development and growth should be located in areas which are within walking and cycling distances of centres. In regard to the sites spatial setting, the site is within walking / cycling distance of the Chesterfield Town Centre (Policy CS1) and is therefore considered in principle to be an appropriate infill development site for new development.

5.3 **Design and Appearance Considerations (including Neighbouring Effect)**

Use

5.3.1 The site lies in an established residential area, but which also contains a mix of transitional uses, leading away from the town centre. These include St Marys Primary School, bed and breakfasts, a church, a care home etc. The site is sustainably located and the principle of residential development on the site is acceptable, subject to a design which reconciles the various site constraints.

Amount

- 5.3.2 The submission proposes 12 units arranged around a central courtyard which based upon the site area, represents a fairly standard sub-urban density.

Layout

- 5.3.3 The proposals are designed in the form of a courtyard arrangement which backs onto Newbold Road and creates a largely insular, inward looking layout. Ordinarily a format that achieves a positive relationship with the streetscene that looks towards and addresses the road would be sought.
- 5.3.4 Notwithstanding this however given the presence of mature trees along the site frontage and the stand alone nature of the current building, developing further into the site is considered to be a legitimate design response on this site.
- 5.3.5 The proposed units comprise a mix of two and three bedroom dwellings and gardens should achieve a minimum of 50sqm for 2-bed units and 70sqm for 3-bed units. Overall the proposals exceed these requirements for the majority of plots, although Plots 4 and 9 appear to fall slightly below the minimum garden size thresholds for a 3-bed house.
- 5.3.6 The proposed layout will require the removal of a number of trees in order to accommodate the proposed layout. This will inevitably reduce the amount of visible tree cover currently contained within the site, potentially detracting from the appearance of the Newbold Road streetscene and diminishing sylvan qualities of the site and its contribution to the appearance of the locale.
- 5.3.7 Notwithstanding this the remaining trees along the front margin of the site alongside Newbold Road would retain a presence of some mature trees, although this would provide only a thin layer relative to the depth of mature tree cover currently present. As per the Tree Officers comment below however a compensatory planting scheme is detailed which will strengthen this cover over time.
- 5.3.8 It is assumed the access road is unlikely to be adopted by the local highway authority and as such a bin collection point (BCP) will be required close to the entrance to enable waste collection to take place from Newbold Road. During a double bin collection day sufficient space would be required to accommodate two bins per

property (26 in total). Large BCP's have the potential to appear utilitarian and unsightly. As such, any BCP would need to be carefully located and designed to avoid adverse visual impacts on the amenity of the development and streetscene. An appropriate planning condition can be imposed to this effect to require further details to be submitted for approval.

Scale and massing

- 5.3.9 The courtyard layout creates a concentrated form of development with units on the eastern and western edges of the site in very close proximity to the party boundary. Although the removal of the existing building would result in a more open aspect to the outlook from Nos. 48 Newbold Road and 43-45 Cobden Road, the outlook from Nos. 35-41 Cobden Road would be more significantly impacted by the proposed layout and Plots 9 and 10 in particular, which run the full length of these rear gardens, within approximately 1.0m of the current boundary wall.
- 5.3.10 The DAS indicates that the scale is intended to be subservient with a layout and windows designed to respect neighbour amenity. The submission is accompanied by site sections which accurately reflect the position of the existing boundary wall and the scale / mass of the proposed development. The proposed units have been designed as 1.5 storey dwellings with some accommodation contained within the roof spaces, although no direct overlooking would result due to the positioning of roof windows.
- 5.3.11 Throughout the previous application process there had been an ongoing dialogue with the applicant over the scheme proposed. One concern which was raised related to the scale and massing of the development relative to Nos. 35-41 Cobden Road as described above.
- 5.3.12 As a result of these concerns the design of the scheme was amended and the height of the roofs to the attached garages were reduced to add some visual relief to the ridgeline along the western boundary as viewed from the neighbouring properties along Cobden Road. The resubmitted application which is now being considered still reflects this change and it is considered that whilst some of the neighbouring properties to Cobden Road have enjoyed uninterrupted views from their rear gardens boundaries the right to a view is not a material consideration as circumstances can change where new development is proposed.

- 5.3.13 In order to assess the impact of such circumstances described above, the LPA have prepared an Supplementary Planning Document (SPD) specifically to inform judgement of new residential development and this document sets out appropriate separation distances to protect and preserve neighbouring amenity. In this instance the development proposed meets the parameters of the SPD and therefore whilst an impact would occur (given the current circumstances enjoyed) the severity of the impact would not be sufficient as to warrant refusal of planning permission.
- 5.3.14 On the recent appeal the inspector considered the relationship with the neighbouring properties adjoining the site which he noted are generally at raised land levels relative to the site. The removal of the existing building and replacement with a one and half storey development would reduce the scale, bulk and massing of built form visible from Nos. 43 and 45 Cobden Road and No 48 Newbold Road. The inspector accepted that the development would introduce built form closer to the habitable windows and rear gardens of Nos. 35-41 (odds) Cobden Road and No 44 Newbold Road. However, the difference in slab and garden levels of those properties, together with the modest scale of buildings proposed would prevent any adverse impact in terms of outlook, privacy and light despite the close proximity of built form to boundaries. Consequently, the inspector considered the development would not have a detrimental impact upon the living conditions of occupiers of neighbouring properties.

Hard Landscaping

- 5.3.15 The front boundary wall is constructed from a type of early aggregate block with a core of brick which is revealed in places due to erosion. The wall itself is a substantial height, but its materials are not characteristic of the local area. It is possible that the wall may need to be removed and a new boundary reinstated. Any replacement boundary treatment will need to be appropriate to the streetscene, as well as in relation to the retained trees however, screen fencing would not be appropriate on such a prominent frontage.
- 5.3.16 It is consider that an appropriate hard landscaping condition could be imposed on any decision issued to secure the exact detail and finish to this boundary wall.

Appearance

- 5.3.17 The application proposes a contemporary approach to the architectural form of the houses, mixing dual pitched, asymmetrical and mono-pitched roofs. This styling would be in contrast to the largely Victorian and Edwardian character of the locality. Nevertheless there is no objection in principle to employing contemporary design, provided that the selection of materials and finishes is harmonious with its setting.
- 5.3.18 The materials should reflect those of the locale and therefore an appropriate condition can also be imposed on any permission issued to control the choices and finishes in this respect.
- 5.3.19 In the context of the provisions of Policies CS2 and CS18 of the Core Strategy and the material planning considerations in relation to neighbour impact, it is concluded the proposals will not adversely impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies. Notwithstanding this however, due to the proximity of some of the adjoining and adjacent neighbouring properties and internal plot relationships it could be possible that permitted development extensions may pose a threat to privacy and amenity and therefore it is considered necessary to impose a condition removing these rights to maintain control over the future relationship any such extensions or alterations would have upon the neighbours.

5.4 Highways Issues

- 5.4.1 The **Local Highways Authority** (LHA) have not provided any specific comments on the latest application submission, however on the basis the proposals are identical to the previously submitted scheme with the exception of the loss of Plot 13 it is considered that their comments on the previous planning application would still be applicable.

‘The site has been the subject of a previous informal enquiry and in principle residential development is considered acceptable. It should be noted that on the layout as indicated the Highway Authority would not consider the access for adoption as part of the publicly maintainable highway and the developer should be aware

of the implications of this in terms of lack of future maintenance etc.

The access shall be constructed as a standard vehicular dropped crossing to give priority to pedestrians and not with kerbed radii.

Information provided indicates that the applicant is under the assumption that a refuse vehicle will enter the site. This should be clarified with the refuse/recycling collection authority and in the event this will not be the case a bin dwell area will be required clear of the highway and access and will need to be of adequate dimensions to accommodate the maximum number of bins on any one collection day.

It is understood that each dwelling will have a single integral garage and it is assumed, in the absence of any specific information that these are of adequate internal dimensions i.e. 3m x 6m with a door opening of 2.3m.

Subject to the above, there are no objections and it is recommended that the following conditions are included in any consent.

- 01. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate*
 - Parking of vehicles of site operatives and visitors*
 - routes for construction traffic*
 - hours of operation*
 - method of prevention of debris being carried onto highway*
 - pedestrian and cyclist protection*
 - proposed temporary traffic restrictions*
 - arrangements for turning vehicles*

- 02. No part of the development shall be occupied until the following works have been carried out in accordance the details first submitted to and approved, in writing, by the Local Planning Authority in respect of any necessary alterations to the footway crossing for the access to the site*

such that a vehicular dropped crossing is provided rather than kerbed radii.

- 03. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No. UR Revision A for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.*
- 04. The garages hereby permitted and car parking spaces to be provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.*
- 05. There shall be no gates or other barriers on the access/driveway.*
- 06. The proposed access to Newbold Road shall be no steeper than 1:30 for the first 10m from the nearside highway boundary and 1:12 thereafter. Individual drives shall not exceed a maximum longitudinal gradient of 1:14.*
- 07. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.*
- 08. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority.'*

- 5.4.2 Having regard to the comments received from the LHA above, it is confirmed that the internal garage measurements commented upon meet the dimensions standards sought by the LHA. Furthermore the issue of refuse collection has been highlighted to the applicant, who has been informed that it is highly unlikely the refuse collection vehicle would enter the site to undertake collections. The applicant has accepted this scenario and confirmed that would be happy to provide further details by condition of a refuse collection area at the entrance of the site where residents would present their bins on collection day to allow collection to take place at Newbold Road. In this regard it is not unusual for a development of this nature to have refuse collection service in this manner and there is appropriate space located within the application site boundary adjacent the shared driveway proposed to ensure a bin collection facility can be accommodated without detriment to highway safety.
- 5.4.3 The site at present is currently served by a dropped crossing access point and the desire of the LHA for this to be maintained as part of appropriate access alterations are noted. This would ensure that pedestrian priority is maintained across the site frontage.
- 5.4.4 Given the sites previous use as offices and the level of on site car parking evident in association with this use, whilst highway safety associated with residential use is raised by a number of objectors, it is unlikely that the number of vehicle movements associated with 13 no. dwellings would be significantly greater than the number of vehicle movements which took place in association with the previous use / fall-back position. It is noted that the LHA have not raised any objections to the use of the single access point to serve a residential development and overall it is considered that the scheme provides an appropriate level of off street parking commensurate with the scale and type of development being sought. It is considered that the development, subject to appropriate condition, meets the requirements of policies CS2, CS18 and CS20 in respect of highway safety matters.

5.5 **Heritage / Archaeology**

- 5.5.1 Matters concerning heritage and archaeology had previously been considered alongside the 2016 scheme (the subject of the refusal /

appeal) and the loss of the building on site formed part of the LPA's initial reasons for refusal.

5.5.2. Notwithstanding this since the 2016 refusal, the building on site has been the subject of a separate application of prior notification for proposed demolition and the LPA / Planning Committee subsequently gave prior approval for the building to be demolished under application ref CHE/17/00059/DEM on the 03/04/2017.

5.5.3 Despite the fact the building is yet to be demolished matters concerning any of the buildings heritage merit now carries very little weight in the consideration of this planning application. Furthermore despite the comments made by the **Chesterfield Civic Society** in response to this current planning application; a planning refusal on such grounds of the loss of the building would be wholly unreasonable given the subsequent planning history and appeal which has followed the previous decision.

5.6 **Trees & Ecology**

Trees

5.6.1 Having regard to the fact the application site is covered by a blanket of trees protected by tree preservation order the application submission was accompanied by an Arboricultural Method Statement and Tree Survey, Tree Constraints Plan, Tree Protection Plans and Landscape Masterplans.

5.6.2 These documents and the application proposals were reviewed by the Council's **Tree Officer** who replicated his comments on the scheme as per the previous planning application as detailed below:

'A detailed tree survey has been submitted with the application by Weddle Landscape Design dated July 2016. It is proposed that 29 individual trees on the site are to be felled for the development, including 12 of 19 under tree preservation 4901.133.

Two of the protected trees reference T11 and T12 on the TPO plan attached are replacement Oak trees which replaced two willow trees from the original order. These two trees have recently been planted and could possibly be planted elsewhere in the scheme or alternatively new trees planted as replacements due to their small size. It is proposed that T11 is retained in the scheme in its current location however its ultimate height and spread so close to the

proposed development would cause considerable problems in the future. The re-location of this tree is therefore recommended.

Other trees within the Order reference T2, T4, T7 & T9 Hawthorn are either dead or dying. T8 Whitebeam, T13 Hawthorn, and T14 Sycamore are of poor shape due to overcrowding by other trees or smothered in ivy which has reduced their visual appearance and loss of internal structure.

The poor condition and limited life expectancy of T16 Weeping Ash (decay in the upper crown and limited branch framework), T18 Cherry (included union at the base) and T19 Sycamore (decay in the main stem and base) also make them unsuitable to be retained in any development scheme where the risk of failure and potential damage they may cause increases dramatically.

This leaves just 7 trees within the Order which are of good condition and worthy of retaining. Five of these trees reference T1, T5, T6 & T10 Purple Beech and T3 Whitebeam are located to the frontage of the site off Newbold Road and have very high visual amenity and should be retained in the scheme and protected throughout the demolition and construction phases.

The other two protected trees are located further into the site and which are proposed to be removed reference T15 Oak and T17 Sycamore. These two trees lack visual amenity due to their position within the site. After an assessment of the two trees and walking around the public highway around the site, the Helliwell Amenity Evaluation system was used to assess their amenity value. It was concluded that these two trees lack visual amenity because of the limited visual impact they have on the surrounding area and the only visual advantage points are from St Mary's school grounds and the surrounding houses. T15 Oak also seems to be suffering from stress which is shown by the amount of epicormics growth in the trees crown and may be attributed to the new tarmac driveway which has been constructed all around the tree. I therefore have no objection to these two trees being removed to accommodate the proposal as long as new trees are planted in mitigation for the loss.

It was also noted on a recent site visit that the front boundary wall is of very poor condition due to the materials used and how it was constructed. This wall will probably have to be removed at some

stage because of this deterioration, cracking and bulging around T1 Beech. It is unclear at this stage if it will be possible to rebuild the wall around T1 Beech until the wall is removed and further assessed. There is also a land level change in this area and the walls removal might compromise the stability of T1 Beech if the trees main anchoring roots are found to be the cause of the problem. This will therefore have to be reassessed once any action is taken whether or not the application is approved.

Plot 13

One dwelling is proposed to the frontage of the site reference plot 13 which may have an impact on T1 & T5 Purple Beech and T3 Whitebeam. The dwelling will also be overshadowed by the protected trees to the frontage. This dwelling is only 4 metres away from the nearest protected tree and will also restrict any new tree planting to the frontage for the trees lost.

Pressure will also be put onto the local authority to have the trees pruned or felled in the future to reduce any perceived nuisance from overhanging branches, leaf fall, shade and light issues.

The new proposed dwelling and driveway will also run through the RPA of T5 Purple Beech and T3 Whitebeam. The dwelling should therefore be removed from the scheme unless the applicant can show how any impact on the rooting system of T5 through above ground construction methods can be avoided and how any perceived nuisance that the existing and new tree planting can be avoided without affecting the quality of life to any new occupier of the dwelling. Due to the lack of suitable tree planting locations on the site which would improve the visual amenity for the general public for the tree lost then the dwellings removal if the preferred option.

Other trees on the site.

Other trees on the site as shown in the tree survey submitted with the application by Weddle Landscape Design dated July 2016 have been categorised as C2 (trees of low quality with low landscaping benefits) and U trees (Those is such a condition that they cannot be realistically retained). I am in agreement with the assessment as the trees are either of poor condition, small in size, located next to walls or other structures and/or are crowded out by other more dominant trees.

New Landscaping

As so many trees are to be removed from within the site through natural decline and to accommodate the development, a revised landscaping scheme should be submitted if the development is approved. Any new planting scheme should enhance the frontage of the site and the proposal should consist of new trees to replace the protected trees lost and an understorey of small woodland trees and shrubs to enhance the biodiversity of the site. As stated in the Derbyshire Wildlife comments, there will be a net loss of biodiversity within the proposal which would not comply with NPPF. This could be offset by a wildlife zone to the frontage to provide a source of beneficial vegetation for wildlife and creating new habitats such as bird boxes, wood piles and low nesting sites by using low woodland vegetation.

The revised landscaping scheme should also show the location of the replacement trees replacing the ones removed from the Order which will then be automatically covered by the existing Tree Preservation Order.

The replacement trees should be planted to the satisfaction of the Borough Council during the first available planting season i.e. 1st November 2017 to 31st March 2018 following the completion of the development and they shall be maintained under the terms and provisions of the aforementioned Tree Preservation Order.

The replacement trees should be a mixture of Mountain Ash, Hawthorn, Silver Birch, Hazel and Field Maple or an agreed alternative and conform to BS8545: Trees: from the nursery to independence in the landscape-Recommendations, 2014, Section 10 Planting.

The replacement trees shall comprise of standard size trees with a stem circumference of 8-10cm which should be staked and tied.

Tree Protection

A tree constraints plan reference TSC 02 Rev A and a tree protection plan reference TSC 03 Rev A by Weddle Landscape design have been submitted with the application. The plans supplied are acceptable and a condition should be attached if the scheme is given approval which ties the tree protection measures and location of tree protective fencing to the scheme before any demolition of construction commences on the site.

Further details need to be provided showing how any disturbance to the rooting environment of T5 Purple Beech can be avoided for the driveway to plot 13 if consent is granted for this plot. Details of an approved 'no dig' construction method should be submitted for consideration showing how the driveway can be achieved without root severance and compaction to the T5. Any hard surfaces/driveways within the retained tree RPA must be constructed using the 'no dig method'. This means that construction will have to be above ground but with no change in ground level and using a 3-dimensional load spreader in filled with a no-fines aggregate to allow oxygen to diffuse and creating a free draining environment.

Facilitating Pruning

Before construction work commences details of any intended tree pruning works shall have been submitted in the form of a formal tree application to the Local Planning Authority for consideration. Only those works approved in writing by the Local Planning Authority shall be undertaken in a method which accords with BS 3998.

I therefore have no objections to application CHE/16/00591/FUL as long as the above mentioned comments are taken into consideration and the conditions below are attached.

Conditions

- *Trees T1, T5, T6 & T10 Purple Beech and T3 Whitebeam of Tree preservation Order 4901.133 shall be retained.*
- *A revised landscaping scheme shall be submitted showing addition wildlife planting to the frontage of the site off Newbold Road and show the location of the replacement trees replacing the ones removed from the Tree Preservation Order 4901.133 which will then be automatically covered by the existing Tree Preservation Order.*
- *To protect the trees during demolition/removal of hard surfaces and construction a root protection area (RPA) calculated to form a construction exclusion zone around the trees should be established as shown in drawing TSC 03 Rev A by Weddle Landscape design.*
- *The trees should then be protected by fencing as shown on drawing TSC 03 Rev A by Weddle Landscape design conforming to BS 5837 during site clearance and while any*

construction is in progress. Notices should be attached to the fencing at regular intervals to this effect.

- *The protective fencing around the trees root protection area's should be inspected and approved by an Officer of the Council or appointed Arboriculturalist before any materials and machinery are brought on to the site and before the removal of hard surfaces, soil stripping and construction commences.*
- *Once erected, barriers should not be removed or altered without prior approval of the local planning authority.*
- *For tree roots to be retained undamaged there must be no excavations, no soil stripping and no grading of the site within the RPA. There should also be no storage of materials within the RPA.*
- *A plan showing where the storage of materials, site cabins, plant and machinery and any other construction material and parking will be located on the site. This should be submitted and approved before demolition, soil stripping and construction commences.*
- *A method statement should be submitted to the Council demonstrating how the existing hard surfaces, services are to be removed within the designated root protection areas before construction on the site commences. The removal of any existing hard surfaces within the RPA should be carried out without the use of any heavy machinery and care must be taken not to disturb tree roots that may be present beneath it. Hand held tools or appropriate machinery should be used to remove the existing surface.*
- *Any hard surfacing within the root protection areas should be constructed above ground using a recognised 'no dig' method. Details of the 'no dig' construction method should be submitted and approved before construction within the RPA's commences.*
- *Any works not agreed within the Root Protection Area must be discussed with the Planning Officer before any operations commence.*
- *The protective fencing shall be retained intact for the full duration of the development and should not be repositioned or removed without prior written approval from the Local Planning Authority.*
- *Before any operations commence, details of the space provided within the site for the storage of plant, and materials, site accommodation, loading, unloading and manoeuvring of goods*

vehicles, parking and manoeuvring of employees and visitors vehicles first submitted to and approved in writing by the Local Planning Authority avoiding the Root Protection Areas (RPA) of the retained trees on the site and adjacent land. Once implemented the facilities shall be retained and not relocated within the retained trees RPA throughout the construction period.'

5.6.3 Following the initial comments above on the original planning application the Tree Officer provided further comments on a revised package of details (21 November 2016) as follows:

'Further details have now been provided in response to my previous comments on the 14th October 2016 and meeting with the applicant on the 23rd November 2016.

Revised Drawing PG.218516.104 Rev B Planning Layout

The drawing now shows the driveway to plot 13 further to the south and outside the root protection area (RPA) of T5 Beech `as shown on drawing KL-63TSC03 Rev B 'Tree Protection Plan' by Weddle Landscape Design. The driveway can now be constructed using a traditional method without the need for an above ground system being used. As the driveway edge is on the outer perimeter of the root protection area, care must be taken when excavating for the driveway edgings and any excavations must not encroach into the RPA.

Revised drawing PG-218516-102 Rev B Landscaping Masterplan

The submitted drawing shows hedge planting to the frontage of the site off Newbold Road which is contradictive of drawing TSC04 Landscape Master Plan and Planting Details by Weddle Landscape Design which shows a wildlife shrub planting as requested in my previous comments and which will mitigate against the loss of trees and shrubs from the development proposal.

The landscaping proposals and species, quantity, size and location on drawing TSC04 Landscape Master Plan and Planting are acceptable and will provide a valuable wildlife habitat and varied ornamental shrub planting around the site. Also noted is the relocation of the replacement TPO trees reference T11 & T12 Oak which have been moved from the southern boundary to the frontage of the site off Newbold Road.

11 protected trees out of a total of 19 will be removed due to the development with 16 new trees being planted around the site. Two new trees to the north of plots 1 & 12 consisting of one Mountain Ash and one Field Maple as shown on drawing TSC04 Landscape Master Plan and Planting Details will be highly visible in the street scene when viewed from Newbold Road and should therefore be included as replacement trees for T2 & T4 Hawthorn of TPO 133 so that the Council has control over any further proposals to fell or prune the trees.

I therefore have no objections to application CHE/16/00591/FUL as long as the above mentioned comments are taken into consideration and the conditions from my previous comments as amended below are attached.

Conditions

- Trees T1, T5, T6 & T10 Purple Beech and T3 & T8 Whitebeam of Tree preservation Order 4901.133 shall be retained.*
- Trees T11 & T12 Oak of tree preservation order 4901.133 shall be relocated to the frontage of the site as shown in drawing TSC04 Landscape Master Plan and Planting Details by Weddle Landscape Design. If these two trees fail during transplanting and thereafter, two new heavy standard Oak trees shall be planted as their replacements and maintained under the terms and provisions of the aforementioned Tree Preservation Order.*
- Two trees consisting of one Mountain Ash, Sorbus aucuparia and one Field Maple, Acer campestre shall be planted in the first available planting season after the development is completed in the location as shown on drawing TSC04 Landscape Master Plan and Planting Details by Weddle Landscape Design to the frontage of the site off Newbold Road as replacement trees for T2 & T4 Hawthorn of tree preservation order 133 and maintained under the terms and provisions of the aforementioned Tree Preservation Order.*
- To protect the trees during demolition/removal of hard surfaces and construction a root protection area (RPA) calculated to form a construction exclusion zone around the trees should be established as shown in drawing TSC 03 Rev A by Weddle Landscape design.*

- *The trees should then be protected by fencing as shown on drawing TSC 03 Rev B by Weddle Landscape design conforming to BS 5837 during site clearance and while any construction is in progress. Notices should be attached to the fencing at regular intervals to this effect.*
- *The protective fencing around the trees root protection area's should be inspected and approved by an Officer of the Council or appointed Arboriculturalist before any materials and machinery are brought on to the site and before the removal of hard surfaces, soil stripping and construction commences.*
- *The protective fencing shall be retained intact for the full duration of the development and should not be repositioned or removed without prior written approval from the Local Planning Authority.*
- *For tree roots to be retained undamaged there must be no excavations, no soil stripping and no grading of the site within the RPA. There should also be no storage of materials within the RPA.*
- *A plan showing where the storage of materials, site cabins, plant and machinery and any other construction material and parking will be located on the site. This should be submitted and approved before demolition, soil stripping and construction commences. This should be outside the designated Root Protection Areas.*
- *A method statement should be submitted to the Council demonstrating how the existing hard surfaces, services are to be removed within the designated root protection areas before construction on the site commences. The removal of any existing hard surfaces within the RPA should be carried out without the use of any heavy machinery and care must be taken not to disturb tree roots that may be present beneath it. Hand held tools or appropriate machinery should be used to remove the existing surface.*
- *Any hard surfacing within the root protection areas should be constructed above ground using a recognised 'no dig' method. Details of the 'no dig' construction method should be submitted and approved before construction within the RPA's commences.*
- *Any works not agreed within the Root Protection Area must be discussed with the Planning Officer before any operations*
- *commence.'*

5.6.4 In respect of the above it is noted that the latest application now being considered deletes Plot 13 from the scheme and this amendment has come about as a result of the PINS Appeal decision whereby the Inspector dismissed the Appeal against the previous refused planning application on the grounds of the potential impact of the development upon two specific protected trees which were affected by Plot 13.

5.6.5 Notwithstanding the fact that the Council's Tree Officer was originally happy with the proposals with the inclusion of Plot 13, in deleting Plot 13 the only outstanding reason for the Appeal being dismissed is eliminated and thus there cannot be any other conclusion reached than that the development as amended is acceptable in terms of its impact upon protected trees.

Ecology

5.6.6 In addition to the comments received from the Tree Officer above the application submission and supporting documentation was also reviewed by **Derbyshire Wildlife Trust (DWT)** who offered the following observations:

We have considered the relevant documents submitted as part of the planning application with particular reference to the following:

- *Tree inspection letter – Prime Environment – March 2017*
- *Ecology Scoping Survey – Prime Environment – Rev 2 December 2016*
- *Design and Access Statement – Oasis Urban Design – Rev A June 2017*

The Tree inspection letter details the results from recommendations within the Ecology Scoping Survey (Section 3 Results and Discussion) which outline specifically that Trees 8 (T8) and Tree 17 (T17) should be subject to an aerial inspection of the features considered suitable for roosting bats. The subsequent results showed that T8 was of low potential and T17 of moderate potential.

We would request that the recommendations detailed within the letter are now adhered to, with T8 being 'soft felled' and T17 having additional nocturnal (dusk/dawn) surveys undertaken within the appropriate survey period.

With regards to the building on site, our previous comments on this still stand (emailed correspondence, C Adkins, 16/03/2017 – application CHE/16/00591). However, further correspondence suggests that the building may have already been demolished under application CHE/17/00059/DEM which was granted on 3rd April 2017. We would request clarification on whether this building is still standing or has been demolished.

It is considered that the application as submitted is not accompanied by sufficient information in order to demonstrate the presence or otherwise of protected species and the extent that they may be affected by the proposed development.'

- 5.6.7 Having regard to the comments from DWT detailed above it is noted that the building in question still stands in situ; however it is the subject of a separate permission for demolition under application CHE/17/00059/DEM. On this basis DWT cannot insist that further survey work is undertaken of the building as permission for its demolition exists and can be implemented at any time without further ecological impact consideration. Such a requirement would be unreasonable. Notwithstanding this, any protected species potentially present on site (such as bats) are separately protected under the Countryside and Wildlife Act and the developer has a separate duty to ensure demolition works adhere to statutory protection laws.
- 5.6.8 Overall in the context of the comments which have been offered by DWT it is argued that appropriate planning conditions could be put in place to require further surveys of the trees (T17) to be undertaken prior to development commencing. The inspector on the recent appeal concluded that the development would not have a harmful effect on biodiversity, including protected species, subject to the imposition of conditions and the proposal, therefore, would not conflict with Policies CS9 and CS18 of the CS or the Framework in that respect. Furthermore it is considered under the provisions of policy CS9 of the Core Strategy that an appropriate balance can be struck between the retention of certain protected trees on site, new planting and incorporation of biodiversity enhancement measures (bird and bat boxes) such that a net gain in biodiversity can be achieved and the development proposals be accepted.

5.7 **Flood Risk & Drainage**

5.7.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from fluvial flooding. In respect of drainage, the application details that the development is to be connected to existing mains drain for foul water and mains drain / soak away for surface water.

5.7.2 The Councils **Design Services** team and **Yorkshire Water Services** have both commented on the application raising no objections in principle however details of the proposed site drainage strategy will need to be submitted for approval in accordance with the Council 'Minimum Standards for Drainage'. The developer will be required to demonstrate that sustainable measures of handling surface water drainage are not feasible prior to the scheme being accepted for connection to the mains system. Appropriate conditions can be imposed to this effect, if permission is granted.

5.7.3 The **Lead Local Flood Authority (LLFA)** has also commented on the application submission and have indicated that in their opinion the following information be sought prior to the application being determined.

- Site plan and impermeable area
- Topographic survey of the site
- Appropriate evidence to support how the site will drain (photographs / maps / a confirmation letter from a water company)
- Basic calculations of the greenfield/brownfield runoff and discharge rates, in l/s/Ha, for the site.
- A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location.
- Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep.
- Basic ground investigation (desktop survey as a minimum).

5.7.4 Notwithstanding the above it is considered that an appropriate drainage strategy can be requested by planning condition and it is not reasonable, given the scale and nature of development, for the LLFA to request the information prior to determination. The site is of sufficient size that it will easily accommodate appropriate storm storage and given the parameters of the site the handling of

surface water run off to appropriate discharge rates can be secured under the same condition without requiring detailed designs at this stage.

5.8 **Land Condition / Contamination**

- 5.8.1 The site the subject of the application is in part previously developed land and in part former garden / open land and therefore it is essential to ensure that the ground conditions are appropriate, or can be appropriately remediated to an appropriate level, to ensure that the ground is suitable for the development being proposed.
- 5.8.2 In accordance with policy CS8 of the Core Strategy and wider advice contained in the NPPF the application submission is accompanied by a Phase 2 Geotechnical and Geo-environmental Assessment (prepared by Eastwoods & Partners) which has been reviewed alongside the application submission by the **Coal Authority** and **Environmental Health Officer**.
- 5.8.3 The **Coal Authority (CA)** commented as follows:
'The Coal Authority considers that the content and professional opinions expressed in the Phase 2 Geotechnical & Geo-Environmental Assessment Report are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions, foundation design and gas protection measures should take place as part of any subsequent application for the development under the Building Regulations.'
- 5.8.4 Specifically in relation to land condition, the Councils **Environmental Health Officer (EHO)** has offered the following comments:
'Should planning consent be granted, please restrict the hours of demolition and construction to minimise noise disturbance to the residents of nearby existing properties. I see that the planning application is supported by a site investigation/geotechnical report. The report concludes that there is contamination within the soils and that these soils are not suitable with residential end use. The applicant will need to provide

a detailed report, such as a validation/verification report to demonstrate that the contaminated soils have been removed from site. All soils to be imported onto site must be tested at source and validated prior to importation. The results of the top soil testing must be submitted to Chesterfield Borough Council and approved in writing prior to importation. All lighting installed on site shall be designed as to minimise glare and overspill off site. The applicant shall submit a detailed lighting plan.'

5.8.5 Having regard to the comments detailed above it is considered that all of the issues raised by the EHO can be subject to appropriate planning conditions (under policy CS8 of the Core Strategy) if permission is granted. The CA has confirmed the site investigations undertaken and reported do not require any further mitigation / remediation in respect of coal mining legacy.

5.9 **Community Infrastructure Levy**

5.9.1 Having regard to the nature of the application proposals the development comprises the creation of 12 no. new dwellings and the development is therefore CIL Liable.

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

	New GIF (sqm)	Calculation	Total
New Dwellings	1039sqm		
Building (to be demolished)	- 574sqm		
CIL Liable GIF sqm	465sqm	465 x £50 (index linked)	£23,250
Total			£23,250

5.10 **Other Considerations**

S106 Contributions

5.10.1 Having regard to the nature of the application proposals, if the principle of development is accepted, several contribution requirements would be triggered given the scale and nature of the proposals (major application / residential development). Policy

CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.

- 5.10.2 Internal consultation has taken place with the Councils own **Economic Development** team, as well as externally with **Derbyshire County Councils Strategic Planning** team to ascertain what specific contributions should be sought.
- 5.10.3 The responses have been collaborated and considered alongside the development plan concluding a requirement to secure S106 Contributions / Legal Agreements in respect of negotiations up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); and appointment of an external management company to manage and maintain the on site drainage systems, communal areas and landscaping (Policies CS9). Matters in respect of education contributions (as requested in DCCs Strategic Policy response) and green infrastructure are now dealt with by CIL contributions (see section 5.9 above).
- 5.10.4 In respect of the remaining policy considerations and comments received the LPA would look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections (Policy CS13).

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 20/07/2017; by advertisement placed in the local press on 27/07/2017; and by neighbour notification letters sent on 17/07/2017.
- 6.2 Following the outcome of the Planning Appeal the resubmitted application was subsequently revised on the 12/10/2017 and therefore the originally consulted neighbours and anyone who had made a representation on the application as a result of the first round of publicity were re-notified on 12/10/2017 giving 14 days for any further comments.
- 6.3 As a result of the applications publicity there have been ten letters of representation and comments from the Chesterfield Civic Society received as follows:

39 Cobden Road - 27/07/2017

Please take this letter as my objection to the re-submitted planning application on the grounds listed below:

The original planning application was rejected on the grounds that the building and trees should not be destroyed, the developer has found a way to demolish the building legally but the trees still remain protected both by TPOs and the planning committee decision. The proposed development still intends to destroy multiple mature trees, including a protected tree (T11) which is at the rear of my property. The Tree Officer's guidance that recommends this 20ft+ tree is to be relocated is an unrealistic suggestion and therefore the development continues to plan to fell this tree. The landscaping plan does not intend to substitute the loss of vegetation & the mature trees to an equivalent level already found on the site. We wish to reinforce our position with regards to the destruction of these natural assets, it is our opinion that the health, remaining life span and aesthetic & biodiversity values of these trees & vegetation has been underestimated and that the destruction of these would be a disgrace.

The development still proposes a significant impact on highway safety as well as the convenience of local road users. The comment that the amount of vehicles is comparable to the properties current level is inaccurate. The development would provide parking for around 26 vehicles (2 cars per plot) and over the past three years, the car park has only contained around 10-14 cars on an average daily basis. This development would increase the probability of an accident on Newbold Road.

I'm extremely concerned that the proposed development and subsequent foundations as well as the removal of tree root balls within the immediate proximity of my property (proposed garage less than 1.00-1.75m from my property boundary), would result in damage to my boundary wall, garden and property.

During the committee meeting in January, most of the committee agreed that building within 1.75m of the property boundaries on Cobden Road was unfair and I'm hoping the committee still agrees.

Below are some models that have been made by taking the information available on the planning portal. What hasn't been shown in the proposal is the overall impact the height of the buildings, window positions and loss of trees will have on the adjoining residents.

Even though the updated design has lowered the roof eaves, given that they are still 1.5 story houses, the large windows that remain in the roof are only a few meters away from the rear boundary of existing properties, persons upstairs will be able to look directly into the rear gardens and back rooms of the properties of Cobden Rd, resulting in an intolerable loss of privacy.

These models have been scaled from plans available on the Chesterfield Borough Council planning portal, as such they are approximations.

The proposed development will still severely diminish the open aspect of the area currently available to the occupants of adjacent housing on Cobden Rd, resulting in blight to the neighbourhood. No information on what will happen to the gated access route into the site from Cobden Road has been proposed and currently this is now an overgrown waste ground that's not being maintained by the current owner. It is our fear that this area will be fenced off and left to deteriorate over time, a more sustainable use of the land should be considered.

The proposed unacceptable high density and over-development of the site will further impact current services which are already stretched. There has been no investigation into what the impact of 13 new houses would have on the combined sewer network that runs along Newbold Road. The Environment Agency or water authority may not have this area down as a flood risk, but outgoing foul drainage from properties on Cobden Rd still backs-up to a point where it overflows from private manholes resulting in pollution incidents linked to storm events or network congestion. Please understand how we the residents feel about this being built so close to our homes and think how you would feel if this was your home. We are not against development; we just believe a more reasonable design can be achieved.

39 Cobden Road - 19/10/2017

Please take this letter as my objection to the re-submitted & amended planning application on the grounds listed below:

The original planning application was rejected on the grounds that the building and trees should not be destroyed and an appeal by the developer has now been dismissed. The amended application has taken comments from the appeal decision report into consideration but not the comments made by Chesterfield Council's planning committee.

The proposed development still intends to destroy multiple mature trees, including a protected tree (T11) which is at the rear of my

property. The landscaping proposal to introduce species friendly vegetation is admirable but it does not substitute the loss of vegetation & the mature trees to an equivalent level already found on the site. We wish to reinforce our position with regards to the destruction of these natural assets, it is our opinion that the health, remaining life span and aesthetic & biodiversity values of these trees & vegetation has been underestimated and that the destruction of these would be a disgrace.

The proposal has now included railings along the site frontage adjacent to Newbold Road. These railings are unfitting within the local surroundings and they do not offer adequate privacy for the potential occupiers of the new development as their backrooms will be on show.

I'm extremely concerned that the proposed development & its subsequent foundations, as well as the removal of tree root balls within the immediate proximity of my property (the roots have spread under my property), would result in damage to my boundary wall, garden and property. The planning office has stated that this is a private matter between me and the developer, but given that my children's playhouse sits beneath the canopy of the tree to be removed and at the edge of the development site; it will be unsafe for them to play in the garden for as long as the construction takes place.

During the committee meeting in January, most of the members agreed that building within 1.75m of the property boundaries on Cobden Road was unfair and I'm hoping the committee still agrees. Below are some models that have been made by taking the information available on the planning portal. What hasn't been shown in the proposal is the overall impact the height of the buildings, window positions and loss of trees will have on the adjoining residents.

Even though the updated design has lowered the roof eaves, given that they are still 1.5 story houses, the large windows that remain in the roof are only a few meters away from the rear boundary of existing properties. Potential occupants will be able to look directly into the rear gardens and back rooms of the properties on Cobden Rd and residents from Cobden Rd will be able to look directly down into the proposed properties from upstairs, resulting in an intolerable loss of privacy for both parties.

These models have been scaled from plans available on the Chesterfield Borough Council planning portal, as such they are approximations.

I've noted that previous planning applications submitted to the council has taken the matter of window positions seriously and I hope it will be taken seriously again in this scenario.

The proposed development will still severely diminish the open aspect of the area currently available to the occupants of adjacent housing on Cobden Rd, resulting in blight to the neighbourhood. No information on what will happen to the gated access route into the site from Cobden Road has been proposed and currently this is now an overgrown waste ground that's not being maintained by the current owner. It is our fear that this area will be fenced off and left to deteriorate over time, a more sustainable use of the land should be considered.

The proposal is an unacceptable level of high density development within a small boundary, squeezing as many properties into the plot as possible will lead to encroaching on the local resident's wellbeing and personal space unnecessarily.

Please understand how we the residents feel about this being built so close to our homes and think how you would feel if this was your home. We are not against development; we just believe a more reasonable design can be achieved.

33 Cobden Road - 20/10/2017

Objects to the Planning Application. Reasons: Policy - Residential Amenity - Traffic or Highways - Visual

Comments: Removal of mature trees; Overlooking of windows; Proximity of build to our rear walls; and Design naff.

41 Cobden Road - 07/08/2017

The proposed development will have an adverse effect on my property, as the height and closeness of the properties will result in loss of light and privacy (there are rear windows proposed in the planned properties);

Two large trees due to be felled (despite protection) are close to my retaining walls and their removal may well result in partial or full collapse of my wall and garden;

Twenty nine trees are planned to be felled, one cut back and four allowed to stay. These are all mature or semi-mature and not diseased or damaged;

The proposed demolition of the 19th Century building seems perverse and is subject to restrictive covenant. As recently as November 2015 the building was considered suitable for conversion.

35 Cobden Road - 04/08/2017

I am writing to object to the above planning application:

1. The proposed development would have an adverse effect on the residential amenity of neighbours on Cobden Road, by reason of overlooking and subsequent loss of privacy and overshadowing/loss of light. The windows in the rear of the planned properties adjacent to Cobden Road are within a few metres of the garden wall allowing the gardens and back rooms of neighbours to be overlooked with resulting loss of privacy. The height of the buildings will result in loss of light to the gardens on Cobden Road particularly as the sun rises behind the proposed development.
2. The proposed development will result in an unacceptably high density and overdevelopment of the site. The proposed development will severely diminish the current open aspect currently available to the occupants of adjacent neighbours on Cobden Road from their houses and gardens. This will result in a blight for neighbours. There are already problems with drainage at this point on Newbold Road. There appears to be no sustainable urban drainage system planned for the new development which will mean a greater chance of flooding on Newbold Road. In particular the removal of the trees covered by tree preservation orders will result in removal of root ball systems and subsequent greater likelihood of flooding.
3. The proposed development will destroy the present views of massive and well established trees which have preservation orders on them. The proposed replacement shrubs/small trees will in no way compensate for this. I ask that officers and Members visit the site to view for themselves the detrimental impact on the local view of the proposed development.
4. The proposed development will have a severely adverse effect on the character of the neighbourhood. At present Cobden Road and this part of Newbold Road has a mixture of owner occupier, social housing and rented accommodation as well as business and local authority and voluntary organisation properties. The proposed development appears to have no social housing element which will unbalance the current character of the neighbourhood.
5. The design of the proposed development appears to be completely out of keeping with the housing surrounding it. It is a dated suburban design rather than one that reflects the town houses in the neighbourhood. The proposed development is

- over-bearing, out-of-scale and out of character in terms of its appearance compared with existing development in the vicinity.
6. The size of the proposed development would adversely affect highway safety and the convenience of road users in that Newbold Road is a busy trunk road already servicing the town centre and local schools and residential facilities. The pedestrian school entrance and bus stop would be adjacent to the access road to the development, raising the likelihood of accidents.
 7. The houses on Cobden Road adjacent the proposed development are subject to severe subsidence due to old mining workings which extend under the proposed development. This has resulted in houses not being insurable. The footings on the houses and the garden walls separating the houses from the proposed development are Victorian and are likely to be only 18 inches deep. The rootballs of the preserved trees go underneath the walls. Their removal will result in damage to the walls and possibly the houses on Cobden Road
 8. The trees to be removed have tree preservation orders on them. They are host to colonies of bats and possibly other protected species such as bees. A survey of protected species must be undertaken. The indicative plan made at the time the area was sold by the NHS provided a more reasonable lower scale development of the site, allowing less loss of visual amenity for the neighbourhood and less impact on the trees, habitat and highway safety. Specifically houses in this plan didn't directly back on to neighbouring gardens. A councillor at the meeting which rejected the previous application suggested turning the plan by 90 degrees meaning the houses back onto the school playground. This would be best in my view.

35 Cobden Road - 25/10/2017

Please take this letter as my objection to the re-submitted & amended planning application on the grounds listed below.

1. Member Mick Wall at the previous planning meeting stated that it would be more appropriate for the back of the properties to be backing onto the school and old convent. This 45 degree move would prevent the loss of light and amenity in the current plan and prevent the new residents and my family looking into each others houses.

2. Replacing mature large protected trees with virtual shrubs pays lip service to tree conservation only
3. I am not against development per se. If only the developers would follow best practice and consult!

48 Cobden Road - 01/08/2017

I am writing to you regarding the above planning application. I wish to register my objection to the application on the following grounds:

1. The architectural design of the proposed houses is unexciting and drab. It is completely out of keeping with the surrounding neighbourhood, which consists of attractive, largely Victorian town houses. When a Chesterfield borough council officer visited my property on a planning matter, he commented on the attractions of the area and was surprised that it was not a conservation area. A previous development on Cobden Road was required to be amended, from a block of flats to two detached houses, to remain in keeping with the surroundings.
2. The plans require the felling of a number of mature trees, among them ash and elm trees. As you will be aware, these are both species under threat of disease and where healthy mature specimens continue to flourish, they should be protected.
3. The Shrubberies is an attractive and well maintained building which enhances the locality. It is part of the heritage of the Newbold Road area and should not be demolished. Whilst I acknowledge the need for new housing, we should not be building it at the cost of architectural heritage. An alternative and far more acceptable development strategy would be to convert the Shrubberies building to luxury flats and build further dwellings in the grounds.
4. A previous planning application concerning The Shrubberies was rejected some years ago, on grounds of safety of access in and out of the site for increased volumes of traffic. The site exits onto Newbold Road, adjacent to the school (both St Marys and St Joseph's Nursery) and bus stop, and there is very limited visibility for pedestrians of any traffic exiting the site. This has the potential to be highly dangerous to pedestrian users of Newbold Road, especially at school start and finish times. I should add that the Spire Heights development was refused an exit onto Saltergate due to traffic safety considerations, so the same criteria should be applied here.

5. Landscaping to the site appears to have a significant paving component. This will exacerbate local flood risk.
6. The design and orientation of the proposed houses shows no consideration to existing residents of Cobden Road, whose properties directly adjoin the site. A number of my friends and neighbours will, if this scheme goes ahead, be looking directly onto the back of the proposed dwellings, and will have their gardens overlooked by the new houses, resulting in a loss of privacy. Redesign of the development to at least have gardens facing the Cobden Road neighbours would go some way to alleviating this.

In summary, I would stress that I am not against the Shrubberies being developed for housing, however the development should take place in sympathy with the surrounding area and neighbours, and must respect the existing architecture.

Chesterfield is very limited in the number of fine heritage buildings it possesses and those remaining should be preserved as they make Chesterfield a more attractive town. I am very disappointed that no progress has been made with exploring the options for the introduction of a Conservation Area – the Council seem prepared to sit and watch while heritage buildings are in danger of being destroyed.

43 Cobden Road - 07/08/2017

I object to the above application:

1. The overwhelming damaging impact of the development on the privacy and visual amenity for all the residents in Cobden Road whose properties abut the site.
2. Effects on individual buildings: The necessary ground disturbance consequent on the construction of the proposed dwellings adjacent to the walls of the properties in Cobden Road will inevitably increase the risk of further subsidence to the existing dwellings. The removal of the rootballs of trees on the site will result in damage to neighbouring garden walls. The height of the buildings will result in overshadowing & loss of light to the gardens in Cobden Road and the windows of those particular houses will look directly into the existing properties resulting in a loss of privacy.
3. Drainage: The removal of TPOd trees in the middle of the site and the creation of a central courtyard will materially impact on the drainage of surface water. The drains in both Cobden Road

and on Newbold Road are already inadequate to cope with the existing demands and residents have experienced spasmodic flooding to their properties.

4. Highway safety issues: The proposed development is an overdevelopment of the site. There is only one vehicular entrance to the site which is on Newbold Road, a major through route to the Town Centre. The sight-line for traffic is restricted because of a rise in the land and a bend in the road just past the junction with Cobden Road. There is bus stop & pedestrian crossing nearby and a pathway to the school alongside the development which is in constant use by young children and their parents. As the school has a wide catchment area there is heavy car traffic on the four adjacent roads at school times.
5. Visual effects on the area: The proposed development will have a severely adverse effect on the character of the neighbourhood, particularly the demolition of the existing 19th century building on the site, which is a significant part of the urban scene in this part of Chesterfield. The comments made by the Department's own consultees in relation to the original application are still valid (particularly the Planning & Conservation Officer who states 'the proposed demolition represents an unacceptable erosion of the town's identity and character').
6. The proposals will destroy the present views of massive, well-established trees in the centre of the site and materially diminish the overall views for the whole of the neighbourhood. TPOs are granted when the tree can be considered of sufficient significance to the wider environment to merit such protection. Clearly the Local Authority's professional arboriculturist has rated these trees as such and that opinion should not be disregarded.
7. Nature Conservation issues: In the 6 months since the original application we have observed the presence of bats, which are a protected species.
8. National & Local planning policy: Recent advice to planning authorities on environmental concerns highlights the importance of elements of green space (particularly urban gardens and trees) to protection from the impacts of climate change, in particular the risks of flooding and the concentrations of greenhouse gases. The ability of mature trees to absorb excess carbon dioxide is now recognised as one of the ways to help achieve internationally agreed targets on global warming.

9. I am concerned by the timing of this resubmission, coming as it does before the Developer's appeal against the original refusal of Planning Permission has been determined with a deadline for objections to this Application (7th August) falling BEFORE the deadline for submissions to the Appeal hearing ((th August). Inevitably this is causing confusion for local residents, and I think this may be an abuse of procedure with serious consequences for the residents, as seems to have happened with to the notice of Demolition of the Shrubberies.

43 Cobden Road – 25/10/2017

The objections below are additional to those I expressed in my objections to the Resubmitted Planning Application on 05.08.17, since unusually the application had been made prior to the outcome of the Appeals Procedure. The revised plan remains essentially the same as the original one last year with the exception of the one dwelling on plot 13 and so my comments here relate particularly to the findings of the Inspector when he rejected the appeal. They should be taken together with the objections I made in August;

I note that the Inspector states that while 'The Shrubberies' " is not statutorily listed or within a Conservation Area, it is a non-designated heritage asset as it has been included within the Council's draft local list with its significance derived from villas of its style being increasingly uncommon in Chesterfield";

He goes on to say "since the determination of the application subject to this appeal, the Council have subsequently granted prior approval on 3 April 2017 for the demolition of No 46 The building had not been removed at the time of my visit, but the evidence before me indicates that there is a realistic prospect that its demolition would take place, irrespective of the outcome of this appeal. Consequently, the loss of the building in terms of its local significance would be outweighed by the fallback position in this instance.";

It was clearly the intention of the Planning Committee when they refused planning permission last year that The Shrubberies should NOT be demolished, a conclusion implicitly supported by the Inspector in his comments about the proposal for the dwelling on plot 13 that "the development, therefore, would cause significant harm to the character and appearance of the area".;

It is therefore significant that a notice of Proposed Demolition of the Shrubberies was validated by the Council on the 6th February, objections required by 24 February & a determination required by

6th March but that the matter did not come to the Planning Committee until 3rd April when they were informed that, because of time constraints, they had no option but to grant prior approval. I note that, in a briefing note to Committee Members, Mr Staniforth stated “A decision has to be made to be made within the prescribed time periods because failure to do so gives deemed permission. The decision as to whether prior approval is required cannot therefore determined by planning committee and will be determined by officers in line with agreed delegation scheme.”; Had this matter been addressed in due time there is no doubt from the comments made by the members of the Planning Committee in April that they would have taken steps to refuse agreement to the demolition. This could be deemed a case of maladministration as failure to ensure the requisite time scales were adhered to has materially affected the conclusion of the Inspector, at the cost of the local heritage and character of Chesterfield. It is particularly ironic as the neighbouring property on Newbold Road, of similar period, is currently going to the trouble of re-roofing the building to maintain its original character!; and I hope, therefore, that the Planning Committee will consider what steps could be taken to remedy this position and then ensure that in relation to the amended proposal they will take note of the Inspectors comment that: “ When taken together the policies seek that all development should identify, respond to and integrate with the character of the site and surroundings and the local distinctiveness of its context, including tree cover and an attractive interface between development boundaries and their surroundings. “

76 Dukes Drive - 12/08/2017

Objects to the Planning Application. Reasons: Residential Amenity – Visual

Comments: A surprising attempt to inflict LEGOLAND on the mainly Victorian Newbold Road.

Chesterfield Civic Society – 09/08/2017

We continue to regret the loss of the existing house on the site, The Shrubberies, and potentially some of the mature trees, not all of which we understand are the subject of TPOs, although we accept that both these matters are at present a lost cause; We fully support the letters sent in by several adjoining residents, complaining at the loss of light, privacy and amenity, because the new building will approach very close to their boundary walls on

the western side of the site. We see this as one aspect of a major defect of the application, which is that it is seeking to get too many houses onto the site. This is completely out of keeping with adjoining properties, which stand on mid 19th-century streets built to a low density. Modern houses will obviously not have as much land attached but we feel that the layout in this case has gone too far in the opposite direction;

Access to and from Newbold Road appears to be poor, with limited visibility for vehicles entering the main road. The junction has not been splayed and there seem to be mature trees on either side of the entrance. The driveway to the houses is very narrow and we are not clear how either refuse lorries or emergency vehicles could easily get access to the properties if there were cars parked on this driveway. This presumably would be the case, since the owners of these properties will almost certainly not use the garages provided, or have more cars than each property has parking space for;

The design of the actual houses we can only describe as appalling in all respects. The elevations are marred by the exceptionally ugly monopitch roofs, and the walling materials shown on the indicative drawings are completely out of keeping with the neighbourhood, which is built almost entirely of red brick. We see absolutely no need for this. Even if the designers of the houses thought that the plans and elevations were a good idea (which we do not), they could have finished them in a material that would fit into the area. The internal layout of the house-types strikes us as uniformly awful. The houses are too small to have integral garages, which means that most purchasers will immediately convert them into additional living space, thus creating parking problems and at the same time probably introducing unsympathetic new windows and doors. We do not understand why all the houses seem to have downstairs bedrooms and room for a lift, since they are not apparently intended as elderly persons' dwellings. We fail to see the point of having living rooms open to first floor ceiling level, which is surely a waste of space in houses as small as these. This really is a case where we do not believe that the designers of the houses would ever consider living in one themselves, and so we wonder why they feel entitled to inflict them on others;

We feel strongly that if this development goes ahead in its present form it will become a serious blot on the landscape, in what a pleasant, mature residential area, in a conspicuous position, adjoining a busy road near the town centre. It is infill development of the worst kind. There should be ample scope on a plot as large

as this to produce a much more satisfactory scheme that blends in much better with its surroundings; and
The Civic Society committee hopes very much that the Borough Planning Committee will reject this design out of hand and recommend to the applicants that they think much harder about how best to build on this site. Ideally, we would like such second thoughts to include the retention of The Shrubberies.

6.4 ***Officer Response –***

Please refer to sections 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 above.

The covenant mentioned in some of the representations received is not a material planning consideration.

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.
- 7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development 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 objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUSION**

9.1 The proposals are considered to be designed such that whilst contemporary, they would still be appropriate having regard to the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. As such, the proposal accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

9.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS10 of the Core Strategy and the wider NPPF in respect of drainage, flood risk, land condition and contamination.

10.0 **ADDITIONAL RECOMMENDATION**

10.1 That a S106 agreement be negotiated and signed concurrent with the planning permission and dealing with:

- Negotiations up to 1% of the overall development cost for a Percent For Art scheme; and
- Appointment of an external management company to manage and maintain the on site drainage, open space and communal landscaping.

11.0 **RECOMMENDATION**

11.1 That a CIL Liability notice issued as per section 5.9 above;

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

Conditions

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

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

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

PG.218516.LOC – Site Location Plan

PG.218516.101D Planning Layout

PG.218516.102D Landscaping Masterplan

PG.218516.103C Site Sections

PG.218516.104A Survey Block Plan Overlay

PG.218516.111B Type B Proposed Plans

PG.218516.112 Type C Proposed Plans

PG.218516.113 Type D Proposed Plans

PG.218516.115B Courtyard Block Elevations

PG.218516.116B Courtyard Block Elevations

PG.218516.119 Site Frontage Railings

PG.218516.SS Indicative Streetscene Visuals (1-5)

21620_OGL-REV0 – Topographical Survey

TSC 01B Tree Survey

TSC 02B Tree Constraints Plan

TSC 03C Tree Protection Plan

TSC 04A Landscape Masterplans

PG.218516.DA Rev A - Design & Access Statement

Ecology Scoping Survey (prepared by Prime Environment) dated December 2016 and a Bat Climbing Inspection. Phase 2 Geotechnical and Geo-environmental Site Investigation Report (prepared by Eastwoods & Partners) dated December 2016
Arboricultural Method Statement – Nov 2016

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

Drainage

03. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - In the interest of satisfactory and sustainable drainage.

04. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

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

05. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra Non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.”

Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient

detail of the construction, operation and maintenance of sustainable drainage systems is provided to the LPA in advance of full planning consent being granted.

06. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.”

Reason - To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- 1. into the ground (infiltration);*
- 2. to a surface water body;*
- 3. to a surface water sewer, highway drain, or another drainage system;*
- 4. to a combined sewer.*

Site Investigations/Contamination

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

Reason - To fully establish the presence and / or otherwise of any coal mining legacy and to ensure that site is remediated, if necessary, to an appropriate standard prior to any other works taking place on site.

08. A. Development shall not commence until details as specified in this condition have been submitted to the Local Planning Authority for consideration and those details, or any amendments to those details as may be required, have received the written approval of the Local Planning Authority.
- I. A desktop study/Phase 1 report documenting the previous land use history of the site.
 - II. A site investigation/Phase 2 report where the previous use of the site indicates contaminative use(s). The site investigation/Phase 2 report shall document the ground conditions of the site. The site investigation shall establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas, groundwater and chemical analysis, identified as being appropriate by the desktop study, shall be carried out in accordance with current guidance using UKAS accredited methods. All technical data must be submitted to the Local Planning Authority.
 - III. A detailed scheme of remedial works should the investigation reveal the presence of ground gas or other contamination. The scheme shall include a Remediation Method Statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.
- B. If, during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement.
- C. The development hereby approved shall not be occupied until a written Validation Report (pursuant to A II and A III only) has been submitted to and approved in writing by the Local Planning Authority. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

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

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

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

Highways

10. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate
- parking of vehicles of site operatives and visitors
 - routes for construction traffic
 - hours of operation
 - method of prevention of debris being carried onto highway
 - pedestrian and cyclist protection
 - proposed temporary traffic restrictions
 - arrangements for turning vehicles

Reason – In the interests of highway safety.

11. No part of the development shall be occupied until the following works have been carried out in accordance the details first submitted to and approved, in writing, by the Local Planning Authority in respect of any necessary alterations to the footway crossing for the access to the site such that a vehicular dropped crossing is provided rather than kerbed radii.

Reason – In the interests of highway safety.

12. No dwelling shall be occupied until space has been laid out within the site in accordance with approved planning layout

for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.

Reason – In the interests of highway safety.

13. The garages hereby permitted and car parking spaces to be provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of highway safety.

14. There shall be no gates or other barriers on the access/driveway.

Reason – In the interests of highway safety.

15. The proposed access to Newbold Road shall be no steeper than 1:30 for the first 10m from the nearside highway boundary and 1:12 thereafter. Individual drives shall not exceed a maximum longitudinal gradient of 1:14.

Reason – In the interests of highway safety.

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

Reason – In the interests of highway safety.

17. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development

have been submitted to and approved by the local planning authority.

Reason – In the interests of highway safety.

Tree & Ecology Conditions

18. Development shall not commence (including any site clearance / preparation) until a further bat survey of T17 has been undertaken (in accordance with recommendations within the Ecology Scoping Survey (Section 3 Results and Discussion) and the results submitted to the Local Planning Authority for written approval. Only once the survey / report has been considered by the Local Planning Authority and its written approval has been given shall any works (which may include necessary mitigation works) commence on site and the works shall be completed exclusively in accordance with the scheme receiving written approval.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.

19. No removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

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

20. Prior to the commencement of development a detailed lighting strategy shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.

This is to be ensure that a sensitive lighting is designed in line with guidance within Paragraph 125 of the NPPF.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.

21. Prior to the commencement of development a detailed enhancement strategy that provides details of enhancement measures for roosting bats and nesting birds shall be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full and maintained thereafter.

Please note that it is expected that provision is made within the new dwellings (as integral boxes) rather than in retained trees to ensure that the roost and nest boxes cannot be tampered with and are secure in the long-term.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.

22. Under Tree Preservation Order 4901.133 Trees T1, T5, T6 & T10 Purple Beech and T3 & T8 Whitebeam shall be retained; furthermore in the first available planting season prior to any development commencing Trees T11 and T12 of the same Order shall be translocated to the frontage of the site as shown in drawing TSC04 Rev A Landscape Master Plan and Planting Details by Weddle Landscape Design and detailed in the Arboricultural Method Statement Nov 2016. If either of these two trees fail during transplanting two new heavy standard Oak trees shall be planted as their replacements as shown in drawing TSC04 Rev A Landscape Master Plan and Planting Details by Weddle Landscape Design / detailed in the Arboricultural Method Statement Nov 2016 and thereafter maintained under the terms and provisions of the aforementioned Order.

Reason – In the interests of protecting any retained and protected trees; maintaining their health and wellbeing in

accordance with policy CS9 of the Core Strategy and wider NPPF.

23. Prior to development commencing (including site clearance / demolition) the Root Protection Area's (RPAs) illustrated on drawing no. TSC03 Rev B Tree Protection Plan by Weddle Landscape Design and as detailed in the Arboricultural Method Statement Nov 2016 shall be established to all retained protected trees within the application site boundary. Protective fencing to define these RPAs shall be erected conforming to BS 5837 'Trees in Relation to Design, demolition and construction - Recommendations' 2012) during site clearance and while any construction is in progress and notices should be attached to the fencing at regular intervals to this effect. There must be no excavations, no soil stripping and no grading of the site within the RPAs and there should also be no storage of materials within the RPAs.

Reason – In the interests of protecting the rooting environment of any retained and protected trees; maintaining their health and wellbeing in accordance with policy CS9 of the Core Strategy and wider NPPF.

24. Removal of any hard surfacing, boundary walls, retaining walls and services within the defined Root Protection Areas (RPAs) shall be undertaken strictly in accordance with the Arboricultural Method Statement Nov 2016. The removal of any existing hard surfaces within the RPAs should be carried out without the use of any heavy machinery and care must be taken not to disturb tree roots that may be present beneath it. Hand held tools or appropriate machinery should be used to remove the existing surfaces unless prior written approval is sought in writing by the Local Planning Authority.

Reason – In the interests of protecting the rooting environment of any retained and protected trees; maintaining their health and wellbeing in accordance with policy CS9 of the Core Strategy and wider NPPF.

25. Prior to the commencement of development details of the location of site cabins, materials, construction vehicles and parking shall be submitted to the Local Planning Authority for

consideration and written approval; and these should be outside the RPAs of the retained trees.

Reason – In the interest of safeguarding the retained / neighbouring trees, having regard to their root protection areas, and in the interest of the appearance of the surrounding area.

26. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. The hard landscaping scheme shall take account of any established root protection areas to retained trees on site and may require alternative measures of construction and finishes to be considered (as detailed in the Arboricultural Method Statement Nov 2016 – or any subsequent revisions thereto).

Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

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

Others

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

Reason - In the interests of residential amenities.

28. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The

Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

Reason - In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CS13 of the Core Strategy.

29. The development hereby approved shall include the provision of appropriate infrastructure to enable the dwellings to have high speed broadband, in accordance with details to be submitted to, and approved in writing, by the Local Planning Authority.

Reason – In the interests of sustainable development and to ensure that the development is capable of meeting the needs of future residents and / or businesses in accordance with policy CS4 of the Core Strategy and para. 42 of the NPPF.

30. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

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

31. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

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

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.

Highways

03. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
04. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action.
05. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps

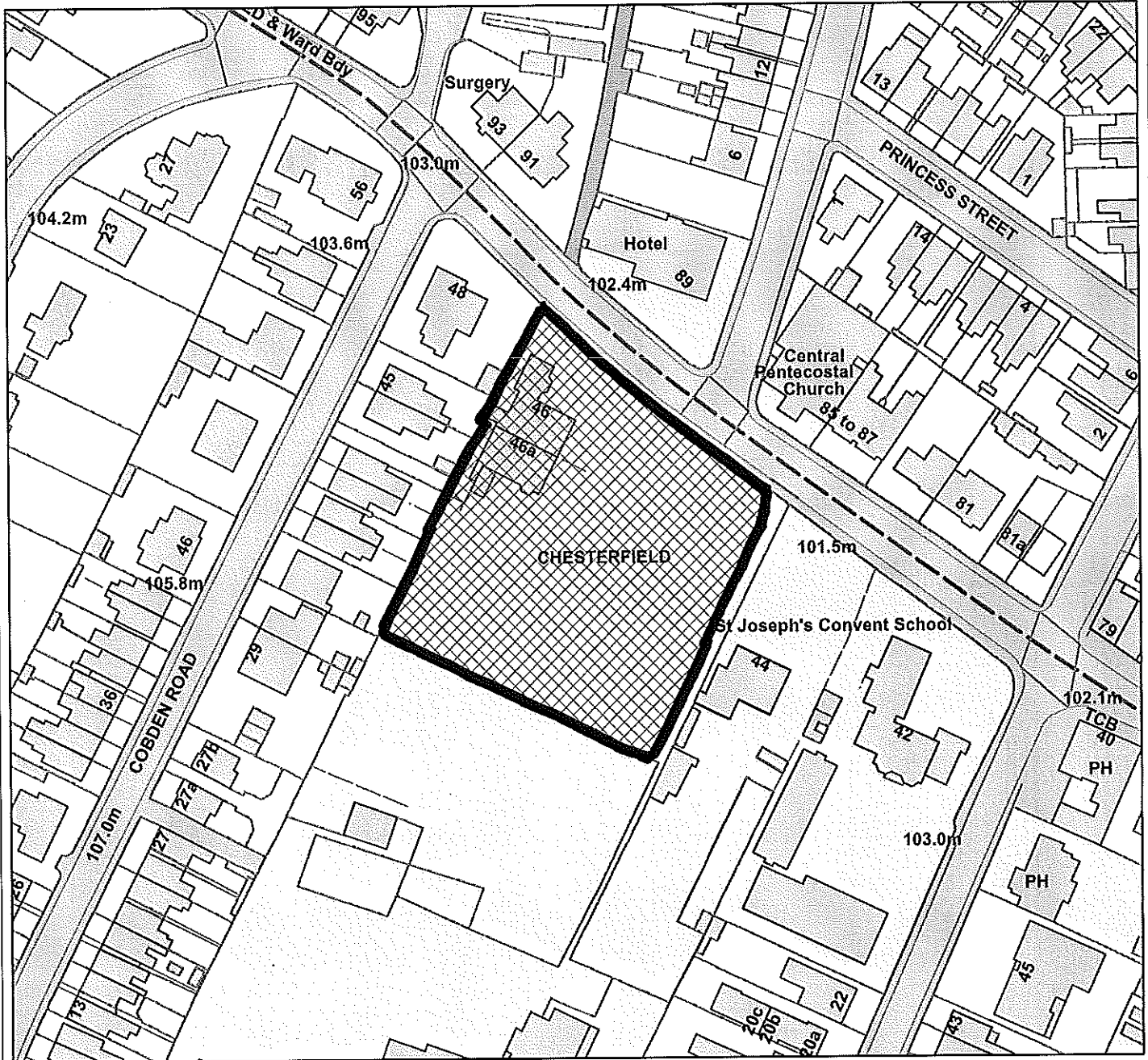
(e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

06. The following clause shall be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought:
“The lessee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that same shall at all times remain private up to the point where the same abuts Newbold Road.
07. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp
08. The applicant is advised that to discharge Condition 17 that the local planning authority requires the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

Trees

09. This permission does not extend to tree works proposed to TPO trees proposed to be retained as part of the development. A separate TPO Tree Works application will need to be submitted to cover these issues inc. the removal of T2, T4 T7 and T9 Hawthorn where replacement trees will be required.

PLAN - CHE/17/00421/FUL - 46 Newbold Road



Scale: 1:1,250

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Organisation	Not Set
Department	Not Set
Comments	
Date	09/11/2017
MSA Number	Not Set

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Case Officer: Paul Staniforth
Tel. No: (01246) 345781
Ctte Date: 20th November 2017

File No: CHE/17/00661/FUL
Plot No: 2/1090

ITEM 2

Two semi-detached houses at 51 Chesterfield Road, Staveley, Chesterfield, Derbyshire, S43 3QG For Mr Michael Bellfield of Bellfield Construction.

1.0 **CONSULTATIONS**

DCC Highways	Recommends refusal – see report.
Design Services	No objections.
The Coal Authority	No objection.
Environmental Services	No objection.
Urban Design Officer	The scheme is an over-development of the site and requires revisions – See report.
Ward Members	No comments received
Neighbours/Site Notice	No comments received.

2.0 **THE SITE**

2.1 The site which extends to 209 square metres in area is a triangular area of garden land located to the north east side of No. 51 Chesterfield Road and which marks the north western edge of the plot. To the northeast a shared drive affords access to a small area of parking and garaging to the rear of and opposite the site. A footpath connection through this space links to West View which is elevated above the site to the south. The existing garden is mainly enclosed by a tall timber picket fence to the front, side and rear together with some small trees and shrubs.

2.2 To the north east of the site are two pairs of Council bungalows. Nos 49 and 51 Chesterfield Road is a pair of early C20 double fronted two storey houses positioned close to the back edge of footway and angled to address the Middlecroft Road junction with Chesterfield Road. Further to the south and west are terraced houses fronting Chesterfield Road, Middlecroft Road and West View. The opposite side of Chesterfield Road are individual detached houses which add to the mix of property types and styles in the vicinity.

3.0 **RELEVANT SITE HISTORY**

3.1 There have been no relevant applications affecting the site however before the four bungalows were built on the land to the north east, the site was occupied by two additional double fronted early C20 dwellings which matched 49 and 51 which were demolished to make way for the cul de sac access.

4.0 **THE PROPOSAL**

4.1 The application seeks permission for a small pair of two bedroom semi-detached houses within the side garden of the existing house. Each dwelling would have a kitchen and living room downstairs and two small bedrooms and a bathroom upstairs. Each dwelling would have one parking space each to the rear and would have a small rear garden. They would have access to Chesterfield Road via the private road to the side of the house.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The site is situated within the Middlecroft and Poolsbrook ward of Chesterfield. This area is predominantly residential in nature. Having regard to the nature of the application, policies CS2 and CS18 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition, the Council's Supplementary Planning Document

on Housing Layout and Design 'Successful Places' is also a material consideration.

- 5.1.2 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:
- a) adhere to policy CS1
 - b) are on previously developed land
 - c) are not on agricultural land
 - d) deliver wider regeneration and sustainability benefits
 - e) utilise existing capacity in social infrastructure
 - f) maximise walking / cycling and the use of public transport
 - g) meet sequential test requirements of other national / local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

- 5.1.3 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.

In addition to the above, the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.1.4 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed

against the design principles set out in this supporting document.

- 5.1.5 A review of the application against the relevant policies and previous applications in the local area, the principle of a residential development is considered to be acceptable. It is within a mainly residential area and a development in this location would support the council's spatial strategy of 'concentration and regeneration' in a location well served by a range of facilities and methods of transport. The site is within 5 minutes walk of Staveley Town Centre and all the services and facilities which it has to offer. There are also bus stops positioned close to the site which provide access to regular services to and from Chesterfield. The site is considered to be a sustainable location where development can be accepted and the proposal accords therefore with policies CS1 and CS2 of the Core Strategy and the principles advocated within the National Planning Policy Framework.

5.2 **Design and Appearance (Inc. Neighbour Effect)**

- 5.2.1 The Urban Design Officer has commented on the scheme and has expressed the following concerns.
- a proposed density of 95 dwellings per hectare which is a very high density.
 - both houses have small back gardens with an area of parking immediately behind. Plot 1 also has a larger area of garden between the flank wall of Plot 1 and the side access drive however plot 2 has 27 square metres. The minimum garden area normally required for a two-bed house is 50sqm. As such the main private garden for this plot is significantly undersized for the dwelling it would serve which is an indicator that the proposal represents an overdevelopment of the site.
 - Plot 1 presents its side gable wall towards the junction with the access road and this is shown as a blank wall and provides for a weak elevation in views along Chesterfield Road from the northeast, albeit partially obscured by the presence of a nearby neighbouring tree. A 'cranked' design could relate better to this position. Alternatively the side elevation could be

fenestrated to present a secondary elevation towards the road

- The internal layout of Plot 1 does not have regard to its relationship with the side garden of this dwelling. The primary external space available to this house is the side garden, with a small secondary area to the rear. However, the internal layout provides no direct access or visual relationship between the living spaces or the side garden area.

If the internal layout could be handed, the staircase would be located against the internal party wall. The external walls of the living room would then be adjacent to the side garden. This would enable the additional windows or French/patio doors to be introduced between the habitable rooms and the primary garden area.

- The application proposes to introduce low brick walls along part of the frontage and a close board fence along the remainder of the front, side and rear boundary. Taller fencing on frontages is generally unsightly and inappropriate. It is recommended that the front boundary should consist of a low brick wall with railings to echo the adjoining properties. Any taller fencing on the frontage with Chesterfield Road required to provide privacy to the side garden of Plot 1 should be set back with hedge planting provided between the wall and the fence in order to provide an appropriate and visually acceptable edge against this public frontage.
- The dwellings include brick elevations with stone heads and cills under a concrete tile roof. The appearance and proportions of the dwellings resemble a pair of workers cottages which are associated with this area. The roof tiles would benefit from the use of a thinner profile tile (Marley Modern proposed), such as a Forticrete SL8 (Slate Grey) or similar suitable alternative, which has a more convincing mock slate appearance and less heavy profile. This would be more reflective of the locally distinctive materials associated with the area and workers housing in particular.

- 5.2.2 In conclusion, the Urban Design Officer considers the proposal to be an overdevelopment of the site, by virtue of the significantly undersized rear garden available to Plot 2. He considers the proposed design does not take into account its relationship with the immediate local townscape and fails to take the opportunity to relate the living spaces of Plot 1 to its primary garden area. Proposed boundary treatments and an absence of landscaping would also result in an unsightly appearance to the site and he advises that the application should be refused on the basis that it is contrary to Policy CS18 and guidance contained within the Council's SPD Successful Places (2013).
- 5.2.3 It is accepted that development of the site is tight and limited by its triangular shape and which results in a relatively small garden for plot 2. The opportunity to revise the scheme to a single dwelling was explored but rejected by the applicant. The reference to 50 square metres of garden area is set out in the Council's "Successful Places" SPD however this is guidance rather than mandatory since each scheme needs to be judged and assessed on its own individual planning merits. There will be those property occupiers who do not desire garden areas and seek small external spaces such as that proposed. The area is characterised by similar properties with small gardens typical of the terraced housing from the late C19/early C20 and whereas small gardens to other properties does not mean that is the correct approach now, the committee will be aware that new dwellings (conversion) were agreed recently at Middlecroft Road which also have very small external amenity spaces. The rear and side gardens together for plot 1 provides a combined 50 square metres garden, which is acceptable. It is not considered that a refusal of planning permission based on a substandard garden size for plot 2 alone could be sustained at appeal given the local context and what has recently been accepted in the vicinity.
- 5.2.4 In terms of overlooking or overshadowing there is not considered to be any specific issue. No objections have been received from any neighbouring residents. In the context of the provisions of Policies CS2 and CS18 of the Core Strategy and the material planning considerations in relation to neighbour impact, it is concluded the proposals will not

significantly impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies.

- 5.2.5 In terms of design, the scheme responds to the prevailing character of the local area. The two houses are positioned on the same building line as No 51 but are to be stepped at a lower level reflecting the falling gradients towards the north east. The dwellings incorporate stone heads and cills to the main front elevation with an lbstock red brick. Whilst precise material samples can be reserved by condition on any approval it is considered that the scheme generally reflects the local context. Furthermore the absence of any fenestration to the side gable is not considered to be crucial with many examples locally of blank two storey gable walls. Overall the proposed development is not considered to be inappropriately sited, scaled and designed and which responds to the provisions of policies CS2 and CS18 of the Core Strategy and the wider SPD.

5.3 **Highways Issues**

5.3.1 Highways Authority officer comments:

Access to the proposed off-street parking would be via a 'stub' off Chesterfield Road that is not adopted as part of the publicly maintainable highway. In addition, it is not included within the red line boundary or shown as being in the applicant's ownership/control. It would appear, therefore, as though access could be an issue.

Visibility from the 'stub' onto Chesterfield Road is restricted due to the width of the fronting footway and boundary treatments and the Highway Authority would not wish to see any intensification in use of the access.

The proposal would only provide one off-street parking space for each dwelling whereas the Highway Authority would look for the provision of two spaces. Whilst parking is restricted on Chesterfield Road the Highway Authority would not wish to see a situation arise where parked vehicles restricted access/manoeuvring potentially leading to vehicles having to reverse to or from Chesterfield Road, a busy major route. It

is noted that off-street parking for the existing dwelling would not be affected.

In view of the above, the Highway Authority recommends refusal of the proposal for the following reasons.

- 1. Vehicular access to the proposed off-street parking is not demonstrated. In addition, only one space per property is proposed which is likely to lead to parking on the 'stub' potentially restricting passage/manoeuvring which could result in vehicles reversing to or from the public highway against the best interests of highway safety.*
- 2. The proposed development, if permitted, would be likely to lead to the intensification in use of an existing substandard access to Chesterfield Road where visibility in the non-critical direction is restricted due to the width of the fronting footway on Chesterfield Road and boundary treatments, thereby leading to potential danger and inconvenience to other highway users. There is, therefore, inadequate provision for off-street parking.*
- 3. The provision of a vehicular access with adequate visibility splays to the Highway Authority's minimum standards would involve the use of land, which as far as can be ascertained from the application drawings, lies outside the applicants control.*

5.3.2 The concerns of the Highway Authority are accepted however it is considered that the reasons for refusal suggested are not defensible on appeal. It is accepted that each of the new dwellings has a parking space which is accessed from the side cul de sac. This is considered to be perfectly appropriate given the sustainable location of the site and the proximity to public transport. In terms of the 'stub' road; ownership of this land and rights over it are unclear at present. It is not adopted and is not Council owned however the garages to the Council bungalows and the access to 49 and 51 all use it for access. There are turning opportunities on the cul de sac such that no reversing out onto Chesterfield Road is necessary. The development could lead to up to 4 dwellings using this road, as well residents/visitors of the neighbouring bungalows and other

surrounding houses and which may result in an – intensification in the use of the access however it is considered that visibility at the access to Chesterfield Road is sufficient for a user to be able to make a safe manoeuvre.

5.3.3 Having regard to policies CS2 and CS18 of the Local Plan in respect of highway safety it is considered that the development proposals do not pose an adverse risk to highway safety.

5.4 **Flood Risk/Drainage**

5.4.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site is not at risk of flooding.

5.5 **Land Condition/Contamination**

5.5.1 The site the subject of the application is currently used as a garden for 51 Chesterfield Road. No objections have been received from the Environmental Services Officer.

5.5.2 In respect of potential Coal Mining Risk, the site lies within the High Risk Area. The Coal Authority was consulted on the application and they agreed with the Coal Mining Report findings that site investigation works had taken place and were acceptable to not require further investigations.

6.0 **REPRESENTATIONS**

6.1 As a result of neighbour notification, no comments have been received from residents.

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.

7.4 Whilst, in the opinion of the highway authority, the development affects highway safety, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict fundamentally 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. The applicant also took advantage of pre application discussions in this case.

8.3 The applicant /agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CIL LIABILITY**

9.1 Having regards to the nature of the application proposals the development comprises the creation of new residential accommodation and the development is therefore CIL Liable.

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

plot	New GIF sqm	calculation	total
1	58	58 x £20	£1,160
2	58	58 x £20	£1,160
Total	116		£2,320

10.0 **CONCLUSION**

10.1 The proposals are considered to be appropriately designed such that they are considered in keeping with the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. The location of the proposed development site is appropriate, is well served by public transport, and is in close proximity to amenities. As such, the proposal accords with the requirements of policies CS2, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

10.2 Whilst the scheme is substandard in respect of one of the garden sizes and in so far as the highway authority concerns are concerned, it is considered that the scheme is not so harmful to such interests of acknowledged importance that planning permission, on balance should not be refused. Subject to the imposition of appropriate planning conditions the proposal is considered to demonstrate wider compliance with policies CS7, CS8 and CS18 of the Core Strategy and the wider NPPF in respect of Highways, the Coal Authority, drainage, and materials.

11.0 **RECOMMENDATION**

11.1 That a CIL Liability Notice be served in line with paragraph 9 above.

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

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

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

02. All external dimensions and elevational treatments shall be as shown on the approved plans:

- Streetview rev A
- Parking Provision and Amenity Plan rev A
- Site Location rev A
- Existing Site layout/levels rev A
- Proposed Site levels rev A
- Proposed and existing floor plans rev A
- Cross section rev A
- Landscaping plan rev A
- Drainage layout rev A

with the exception of any approved non material amendment.

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

03. Before any operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods, vehicles, parking and manoeuvring of employees and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by

the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designed use throughout the construction period.

Reason – in the interests of highway safety

04. No dwelling shall be occupied until space has been laid out within the site in accordance with the approved drawings for vehicles to be parked.

Reason – in the interests of highway safety

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

Reason – in the interests of highway safety

06. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the cladding materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

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

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

Reason - In the interests of residential amenities.

08. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed, or additional windows erected or installed at or in the dwellings hereby approved without the prior written agreement of the Local Planning Authority.

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

9. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include proposed finished levels; means of enclosure; gates; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and bin storage areas. The agreed details shall be implemented as part of the development and be retained thereafter.

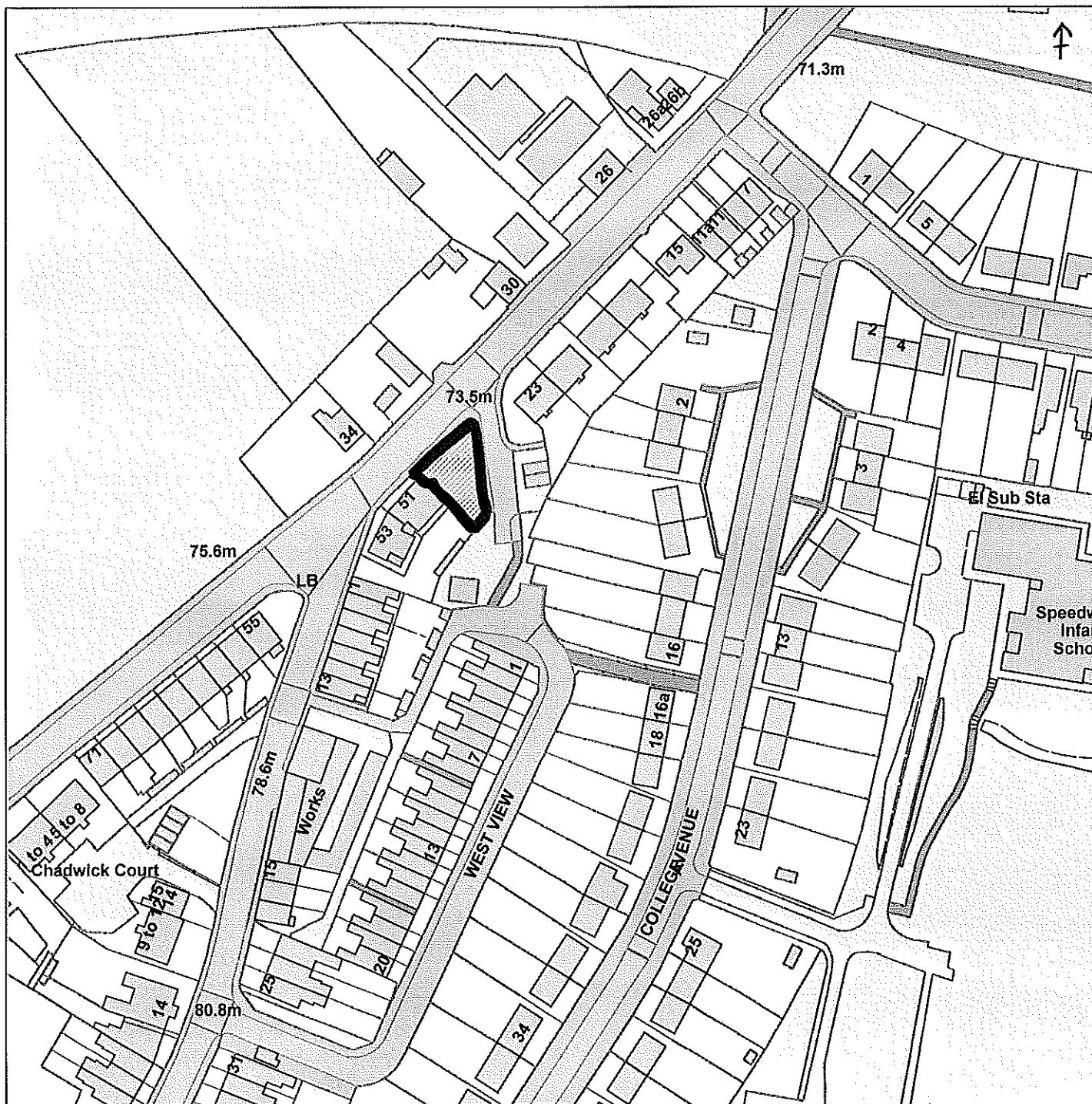
Reason: The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to

enforcement action and will require the submission of a further application for planning permission in full.

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Organisation	Not Set
Department	Not Set
Comments	
Date	09 November 2017
SLA Number	Not Set

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Case Officer: Sarah Kay
 Tel. No: (01246) 345786
 Ctte Date: 20th November 2017

File No: CHE/17/00326/REM
 Plot No: 2/208 & 1926

ITEM 3

SUBMISSION OF RESERVED MATTERS PURSUANT TO PLANNING APPROVAL CHE/15/00116/OUT FOR THE DEVELOPMENT OF 106 RESIDENTIAL DWELLINGS (REVISED DETAILS REC'D 25/09/2017, 10/10/2017, 13/10/2017, 27/10/2017, 01/11/2017, 07/11/2017 AND 09/11/2017) AT CAMAC COAL, DUNSTON ROAD, CHESTERFIELD, DERBYSHIRE, S41 9RL FOR STRATA HOMES YORKSHIRE LIMITED

Local Plan: Economic Growth CS13
 Ward: Dunston

1.0 **CONSULTATIONS**

DCC Highways	Comments received 03/08/2017, 20/09/2017 and 07/11/2017 – see report
Environmental Services	Comments received 03/08/2017 – no details received which require their consideration
Design Services	Comments received 09/08/2017 – reiterate previous outline app. comments / conditions
Economic Development	No comments received – local labour condition imposed on original outline app.
Yorkshire Water Services	Comments received 17/08/2017 – no objections in principle
Derbyshire Constabulary	Comments received 14/08/2017 – see report
Lead Local Flood Authority	Comments received 15/08/2017 - reiterate previous outline app. comments / conditions
C/Field Cycle Campaign	Comments received 04/08/2017 – object on the grounds the site is not sustainable, connected or intended to be served by sustainable transport
Tree Officer	Comments received 21/09/2017

	– see report
Urban Design Officer	Comments received 23/08/2017 – see report
Derbyshire Wildlife Trust	Comments received 25/08/2017 regarding discharge of conditions 11 – 17 of the outline app.
Derby and Derbyshire DC Archaeologist	Comments received 24/08/2017 – no objections
Ward Members	No comments received
Site Notice / Neighbours	Two letters of representation received

2.0 **THE SITE**

2.1 The application site is approximately 4.5ha in size and relates to the former Cammac Coal Yard. The site is located to the north of Dunston and Newbold in Chesterfield, close to the Sheepbridge Industrial Estate. Chesterfield town centre lies approximately 3.5km to the south east of the site. The site was formerly a coal stocking yard but is currently used for the storage, salvage, maintenance, refurbishment and hire of large items of heavy plant and machinery.



2.2 The site is relatively flat with a gentle slope from west to east, and with the land rising to the north. The existing surface of the site is

a mixture of hardstanding, concrete and unsurfaced areas with some areas of vegetation and woodland. In particular, a dense belt of woodland (subject to Tree Preservation Order No. 4901.44) fronts Dunston Lane and flanks the east and west of the site entrance. The eastern boundary also comprises a substantial linear tree belt which provides robust screening to the Bridge Business Centre and the Sheepbridge Trading Estate, immediately to the south-east and east/north-east of the site respectively.

- 2.3 Access to the site is currently gained off Dunston Road and the access road continues north to a central area and then splits east and west. The eastern arm of the access road swings round to provide access to the land immediately north of the site. The eastern part of the site provides open storage of plant and equipment. The western arm of the access road leads to a large area of hardstanding, where there is a mix of heavy plant machinery and skips which forms the main focus of current operations at the site. There are a number of buildings/structures within this area of the site and there is also a non-operational weighbridge and cabins in this area together with a mast and power substation. The site also contains a telecommunications tower adjacent to the woodland at the southern part of the developable area.
- 2.4 The majority of the site boundaries are defined by mature trees, with the exception of the relatively short north western boundary (which has intermittent trees) and the triangular piece of land at the north eastern corner. Immediately to the north and north-west of the site is an area of open land, beyond which is Sheepbridge Industrial Estate, separated by a robust belt of woodland and raised made land. To the west of the site is open land, which is designated as Green Belt (which includes the belt of woodland that fronts the site). The southern boundary of the site is defined by Dunston Road, beyond which is open countryside before reaching the built up area of Dunston. Dunston Hall (Grade II Listed), Dunston Hall Farm and Dunston Hall Garden Centre are located on the southern side of Dunston Road just to the west of the site.
- 2.5 A public right of way which travels north/south between Dunston Lodge and Sheepbridge Industrial Estate, passes through the belt of trees which front Dunston Road and then follows the south western boundary of the site.

3.0 **RELEVANT SITE HISTORY**

3.1 See table below:

Planning App. Ref No.	Proposal and Decision
CHE/17/00755/DOC	Discharge of conditions 17, 18, 19, 21, 27, 30 and 31 of CHE/15/00116/OUT. Still pending consideration.
CHE/17/00710/DOC	Discharge of conditions 4, 6, 8, 9, 11, 13, 14, 15, 25, 26, 36 and 39 of CHE/15/00116/OUT. Still pending consideration.
CHE/15/00116/OUT	Outline planning application for the development of up to 146 residential dwelling with approval for access from Dunston Road. Conditional permission 29/03/2016.
CHE/08/00567/CPO (DCC Ref. CW2/0708/56)	Development of Sheepbridge Resource Park, to enable the recycling and sorting of waste materials, and generation of renewable energy. CBC objected to DCC on 29/01/2009. Decision by DCC to refused 09/12/2010.
CHE/08/00352/CPO (DCC Ref. CW2/0508/20)	The application site is an existing Materials Recycling Facility. Vary condition 1 of planning permission CW2/1001/82. CBC raised no objections to DCC 04/08/2008. Decision by DCC to grant conditional permission 22/10/2008.
CHE/05/00272/FUL	Extension to telecommunication mast. Conditional permission 25/05/2005.
CHE/1000/0597	Replacement of 22.5m mast with 25m mast erection of 6 dual polar antennas and one dish antenna and erection of radio equipment cabin. Conditional permission 21/02/2001.
CHE/1196/0583	Erection of tower with associated antennae dishes and equipment housing. Conditional permission 20/12/1996.

CHE/0796/0369 (DCC Ref. CW2/1001/82)	Materials recycling centre. CBC objected to DCC 22/08/1996. Decision by DCC to grant conditional permission 31/01/2002.
CHE/0891/0547	Extension and alteration to existing offices. Conditional permission 03/10/1991.
CHE/0490/0331	Use of land for storage. Refused 12/07/1990.
CHE/0988/0700	Permission for the regularisation of and extension to existing waste disposal operations. Conditional permission 21/01/1989.
CHE/0687/0381	Permission for office block and weigh bridge. Conditional permission 24/08/1987.
CHE/0485/0219	Permission for industrial development comprising plant servicing yard and landscape scheme. Conditional permission 13/06/1985

4.0

THE PROPOSAL

4.1

In March 2016 planning permission was granted in outline for residential development of up to 146 dwellings on land currently operated by Cammac. The outline application site measured in 4.5 hectares in area.

4.2

This is an application which seeks reserved matters approval for that outline planning permission for a scheme designed by Strata Homes Yorkshire Limited comprising the erection of 106 dwellings.

4.3

The development includes a mix of 2, 3, 4 and 5 bedroom units as shown on submitted drawing and schedule SH/CHEST/AP01 (Rev L). The scheme includes for the provision of Affordable Housing (30%). Access to the site is proposed from Dunston Road to the south via an upgraded junction in accordance with the outline approval which will extend into the site to serve the proposed layout.

4.4

The application submitted is supported by the following list of plans / documents:

SH/CHEST/LP01 - LOCATION PLAN

House Types

- MY (08-V1-2) REV 09 AND MY (09-V1-4) REV 08 – MILAN (FLOOR PLAN & ELEVATIONS)
- MY (07-V2-3) REV 10, 12, 13 AND 14 - PARETTI V2 (FLOOR PLAN & ELEVATIONS)
- MY (03-V1-4) AND MY (10-V1-4) REV 20 – BARCELONA AND MADRID (FLOOR PLAN & ELEVATIONS)
- MY (04-V10-4) REV 10 AND 11 – BOLOGNA (FLOOR PLAN & ELEVATIONS)
- MY (04-V11-4) REV 11 AND 12 – CATANIA (FLOOR PLAN & ELEVATIONS)
- MY (09-V1-4) REV 08 AND 09 – VENICE (FLOOR PLAN & ELEVATIONS)
- MY (19-V1-4) REV 10G AND 11G – COLOGNE (FLOOR PLAN & ELEVATIONS)
- MY (17-V1-4) REV 10, 11 AND 12 – VIENNA (FLOOR PLAN & ELEVATIONS)
- MY (11-V2-4) REV 11 AND 12 – STOCKHOLM (FLOOR PLAN & ELEVATIONS)
- MY (13-V-1-4) REV 10, 11 AND 16 – OPORTO (FLOOR PLAN & ELEVATIONS)
- MY (02-V6-5) REV 11, 12 AND 13 – PALERMO (FLOOR PLAN & ELEVATIONS)
- MY (02-V7-5) REV 01, 02 AND 03 – LAUSANNE (FLOOR PLAN & ELEVATIONS)
- MY (20-V1-5) REV 10 – BORDEAUX (FLOOR PLAN & ELEVATIONS)
- MY (14-V1-5) REV 10 AND 11 – VALENCIA (FLOOR PLAN & ELEVATIONS)

- Garages
- PA/WY/SG1 REV A – SINGLE GARAGE (FRONT TO BACK ROOF)
- PA/WY/DG3 REV A – TWIN GARAGE (FRONT TO BACK ROOF)

- Site Layout
- SH/CHEST/AP01 REV L – APPRAISAL LAYOUT
- SH/CHEST/02/01/04 – CROSS SECTIONS
- SH/CHEST/MAT02 – MATERIALS LAYOUT

- ~~SH/CHEST/V01 – LAYOUT WITH STREETSCENE / STREET SECTIONS~~
- ~~SH/CHEST/MP01 – MASSING PLAN~~
- ~~SECTIONS A-A AND C-C (PLOTS 1-4 / 5-10)~~
- ~~SECTIONS B-B (PLOTS 58-60 / 81-85 / 102-106) (PLOTS 81-84 / 102-106) (PLOTS 58-60 & 85)~~

- Engineering Details
- 1076-1C – ENGINEERING LAYOUT
- 1076-5B – MANHOLE SCHEDULE
- 1076-2-1B - LONGITUDINAL SECTIONS
- 1076-2-2B - LONGITUDINAL SECTIONS
- 1076-2-3B - LONGITUDINAL SECTIONS
- 1076-2-4B - LONGITUDINAL SECTIONS
- 1076-2-5B - LONGITUDINAL SECTIONS
- 1076-2-6B - LONGITUDINAL SECTIONS
- 1076-9-1A – HIGHWAY CONSTRUCTION
- 1076-9-2A – HIGHWAY CONSTRUCTION

- Landscaping
- 1501-01B (SHEET 1 OF 4) - DETAILED LANDSCAPE PROPOSALS
- 1501-02B (SHEET 2 OF 4) - DETAILED LANDSCAPE PROPOSALS
- 1501-03B (SHEET 3 OF 4) - DETAILED LANDSCAPE PROPOSALS
- 1501-04B (SHEET 4 OF 4) - DETAILED LANDSCAPE PROPOSALS
- 1501-05B (MASTERPLAN) – LANDSCAPE MASTERPLAN
- SH/CHEST/AP04 – SURFACING PLAN
- SH/CHEST/AP05 – BOUNDARY TREATMENTS PLAN

- Documents
- Arboricultural Impact Assessment (ref. BA6021AIA)
- BA6021AIA - Tree Impact Assessment Plan
- Planning Statement
- Landscape Management Proposals
- Covering Letter

4.5 A package of revised drawings (reflected in the list above) were also submitted on 25/09/2017, 10/10/2017, 13/10/2017, 27/10/2017, 01/11/2017, 07/11/2017 and 09/11/2017.

5.0 **CONSIDERATIONS**

5.1 **Planning Background / Principle of Development**

- 5.1.1 The site the subject of this reserved matters application benefits from a live outline planning permission CHE/15/00116/OUT for residential development which was approved on 29/03/2016 subject to 42 no. planning conditions and a S106 agreement covering the provision of public art, affordable housing, an education contribution, management of green space and suds infrastructure and bus stop investigation / provision.
- 5.1.2 The live outline permission enables applications for reserved matters approval to be submitted for a period of three years following the date of the outline approval (i.e up to 28/03/2019) and this reserved matters application concerns the approval of access, appearance, landscaping, layout and scale details.
- 5.1.3 Having regard to the principles and parameters set by the live outline planning permission the principle of development is already accepted and subject to the details of the reserved matters submission meeting the provisions of the outline planning conditions and the S106 agreement the issues already agreed and set by the outline permission cannot be revisited. Only the outstanding reserved matters issues concerning appearance, landscaping, layout and scale are to be considered. Access was detailed at the time of the outline planning permission and the subsequent approval of the access is dealt with by conditions 27 and 28 of the outline planning permission and the associated construction approval which is given by the Local Highways Authority.

5.2 **Design and Appearance Considerations (inc. Neighbouring Impact)**

- 5.2.1 Having regard to the detailed design and appearance considerations of the proposed reserved matters details alongside the case officers own appraisal of the scheme; the Council's Urban Design Officer (UDO) and Tree Officer (TO) were invited to review the submission.
- 5.2.2 Initial comments were provided by the **Urban Design Officer** and **Tree Officer** as follows:

Urban Design Officer

'Amount

The proposal seeks permission for 106 dwellings within a site area of 4.46 hectares. This equates to a gross density of 23 dwelling per hectare. This amount of development represents a fairly standard modest density of development.

Notwithstanding the overall density, the submitted layout raises a number of design concerns (see comments below).

Layout

The following comments relate to the layout of the proposed scheme.

- 1. The layout is generally outward looking along its northern and western edges, which is appropriate, although the nature of the interface with the countryside requires additional consideration and detail (see Landscaping comments below).*
- 2. Three storey buildings occupy corner locations on Plots 5 and 85 which is key node within the site. This will support the legibility of the development.*
- 3. Fronts and Backs:*
 - a. These are generally well resolved with dwellings located in perimeter blocks, with the exception of the area behind Plots 101-106.*
 - b. Plots 102-106 present back fences towards the cul-de-sac and loop road views to this feature are closed by the rear boundary, providing a weak focal point in the townscape and a poorly defined area of townscape and outlook for nearby occupants.*
- 4. Internal permeability is generally acceptable and roads form connected loops which assist movement around the site, although the ability to connect to beyond the site is less clear e.g. no link is shown to the adjacent footpath, which is likely to be utilised by future residents.*
- 5. Plots 68-71 form a terrace of four houses. The central units (Plots 69-70) have no rear access to their gardens which is unacceptable. This is likely to result in bins remaining on the frontage and require garden waste to be carried through*

habitable rooms. It is recommended that the terrace is divided into two pairs of semi-detached houses and parking located to the side of the properties. Alternatively a ginnel passageway could be provided to serve the central units and house types adjusted accordingly. Rear passageways present a security risk, raising crime and design issues and should be avoided (see Successful Places guidance, 2013).

- 6. The proposals display an excessive amount of frontage parking leading to vehicle/parking dominated frontages and undermining the appearance of these streetscenes. This is associated with a reliance on the use of integral garage house types and is considered likely to result in a detrimental appearance of the local environment. It is recommended that house types are substituted for house without integral garaging and the layout is adjusted to accommodate parking discretely between buildings or that frontages are provided with enclosures, in combination with landscaping to define plots, distinguishing between public and private spaces to form a positive interface with the street.*
- 7. Where garden boundaries are exposed against public frontages, these will intrude into the streetscene. It is recommended that where these project forwards into the street/about the back edge of the footway that these are set further back behind a landscaped margin (Plots 4-5, 30, 60, 74, 81, 85 and 102). In addition, the long rear fence of Plot 101/106 backs onto the entrance road, which is not shown with any landscaping, results in a poor sense of arrival into the development. In addition, boundary treatment to the wooded area on the west side of the access is unclear and should be clarified. However, a tall fence over the distance between the entrance and Plot 1, combined with its prominent siting would be inappropriate and should be avoided. This aspect of the submission should be reviewed and amended to provide an appropriate boundary and mitigating landscaping.*
- 8. Plots against open spaces lack protection and defensible edges, with no railings or boundary treatments to provide definition between public and private space. Railings should be utilised to enclose public spaces and protect private spaces.*

9. *The layout provides some built hierarchy and sense of urban structure through the use of some taller 2.5 and 3 storey units at strategic locations as well as several squares and green spaces included within the layout. However, the green spaces and squares appear fairly generic and lack enclosures, features of interest such street trees (e.g. within the square) or details of hard surface treatments. It is recommended that the design of these key features within the townscape is revisited and appropriately detailed in order to strengthen these locations.*
10. *No indication of SUDS drainage is demonstrated within the layout, which could significantly influence the form of the layout. For example the possible requirement for features such as SUDS holding ponds and/or swales would impact on the layout and require this to be reconsidered. It is recommended that an indication of proposed SUDS measures is provided by the applicant.*
11. *Given the relatively isolated nature of the location the site appears to lack play facilities, although areas of informal open space are present. Guidance from Leisure Services on the need for local play facilities should be sought.*
12. *A number of corner plots in key locations display weak side elevations with no or limited fenestration and facades which fail to adequately address the adjacent street frontage or space. Plots 4, 42, 60, 63, 67, 68, 75, 77, 78, 81, 92, 95, 102 and 106. The key on the layout drawing refers to dual aspect dwellings but does not identify any such units with the scheme itself. Corner units should be articulated to face both frontages with windows and/or bay windows added to side elevations to serve habitable rooms and achieve the appearance of a primary elevation. Plots 5 and 85 include two-storey parapet projections with blank walls facing the street. It is recommended that the wide windows on these elements are repositioned to articulate the most prominent side facing wall on these plots.*
13. *The garage of Plot 78 is inappropriately located in a prominent corner position and should be revised to a more discrete position (e.g. adjacent to the garage of Plot 79 – perhaps a as a double garage) or the house type substituted for a more suitable corner house type that can more directly address the*

street (e.g. MY-04-V10-4 as used on Plot 54). The design of this plot should be revisited and amended.

14. Garden sizes are not identified on the layout, although a number of plots, appear to be small. The applicant should be requested to provide details of garden sizes which should be detailed meet or exceed the 'minimum' garden sizes in accordance with guidance contained within Supplementary Planning Guidance, Successful Places (2013). In summary these are:

- a. 2-bed 50sqm*
- b. 3-bed 70sqm*
- c. 4-bed 90sqm*

Scale and massing

A range of two, two and half and three storey buildings is proposed which is considered to be acceptable in respect of the scale of development in this location.

Landscaping

The landscaping plans include notation in relation to existing trees which is not referred to in the key. For example existing trees which are shown with triangular, square and circular symbols although these are not explained. As such, it is recommended that the landscaping details are updated in order to clarify the intended landscaping works and identify those trees to be retained and removed.

No details of hard landscape are provided within the submission. These should be provided.

Details of boundary treatments are provided on the layout but without elevations. Pier and panel fences are proposed on exposed and rear garden walls against public frontages, which is not acceptable. Robust brick screen walls should be located in these positions.

Lack of boundary treatments to frontages also emphasises the open plan nature of the layout and increases the prominence of the proposed frontage parking arrangements which will dominate the streetscenes. Notwithstanding the proposed landscaping arrangements it is recommended that vertical front boundary

treatments are provided on plot frontages. Railings are shown in the drawing key, but these do not appear on the layout itself.

Boundary treatments at the edge of the site against the countryside are unclear and should be clarified. Tall panel fences would not be appropriate and a clear and common approach to dealing with the interface between the countryside and the adjacent landscape is required, both in terms of boundary enclosures, such as post and rail or estate style railings and also landscape treatment. Currently the landscape proposals appear to imply the removal of most existing vegetation and limited replacement planting which would leave the development exposed and highly visible in the landscape. An appropriate response to the 'edges' is required and should be clarified by the applicant.

Appearance

It is recommended that a materials plan is provided to indicate the distribution of materials across the site so the approach and distribution can be clearly understood. Currently the individual house types indicate brick and stone elevations, although these do not appear to be identified on the layout to demonstrate how these would be distributed across the scheme.

It is recommended that the use and disposition of materials follow a logical approach so that notable materials such as stone are, are located at important intersections to aid wayfinding and legibility, and that other materials are grouped so as to support and reinforced character and identity of particular streets and key locations within the development itself.

House Types

These are standard developer product with a contemporary flavour, although the submission fails to demonstrate how the development would reflect the local distinctiveness of the Borough. The application does not demonstrate an appreciation of the locally distinctive characteristics of the Borough or explain how these have been interpreted and used to inform the resulting designs. It is recommended that the applicant clarifies how the proposed development will support the local distinctiveness and identity of Chesterfield.

Access

The suitability of the site entrance for vehicle access should be advised by DCC Highway Engineers.

The layout turns it back on the footpath which runs along the southern edge of the site and makes no connection to this path. Consequently, residents would be required to walk along Dunston Lane, which lacks any footways at this point, in order to access the path.

Improvements to connections back towards Chesterfield and local amenities are also unclear.'

Tree Officer

'A 12 page landscaping management plan has been submitted with the application which is acceptable

The following landscape drawings have been submitted to discharge condition 01:

C-1501-01 Detailed landscape proposals 1 of 4 dated May 2017 by PDP Associates

C-1501-02 Detailed landscape proposals 2 of 4 dated May 2017 by PDP Associates

C-1501-03 Detailed landscape proposals 3 of 4 dated May 2017 by PDP Associates

C-1501-04 Detailed landscape proposals 4 of 4 dated May 2017 by PDP Associates

C-1501-05 Landscape Masterplan dated May 2017 by PDP Associates

The landscaping drawings mentioned above are in general fine and show the location of the herbaceous, shrub and trees planting with a detailed planting schedule which includes extra heavy, heavy and standard tree planting in suitable locations, however the landscaping plans submitted are a little confusing as there is no key for the symbols used for example the squares and triangles for the trees on the site but no explanation of what these symbols mean. Are these trees to be planted, retained or felled?

No hard landscaping details have been submitted with the application. Details should therefore be provided and which should show in detail any hard landscaping which will encroach into the

retained trees root protection areas (RPA's) and include cross sectional drawings if there are any change in levels. Details of any above ground construction methods 'no dig' within the RPA's should also be provided as stated in Condition 18.

Until hard landscaping details are submitted along with tree protection measures when constructed within the RPA's and the clarification of the soft landscaping symbols are submitted then the landscaping section for Condition 01 cannot be discharged.

Details of the engineering works for the surface and foul water outfalls have been submitted on drawing 1076-1 Rev B titled Dunston Road Chesterfield Engineering Layout dated Dec 2016 by R.A.B Engineering. There are major concerns of the outlet outfalls off the site at the junction with Dunston Road. At this junction, instead of going into the highway and continuing down Dunston Road to the east, the route is cuts short and goes along the frontage of the wooded area reference A1 of TPO 4901.44. The excavations and the required easement would remove the majority of trees along this frontage. This is therefore totally unacceptable and should be re-located into the highway to avoid the unnecessary felling of trees.

Condition 18 stated that concurrent with the submission of the first reserved matters application a tree protection plan shall also be prepared demonstrating appropriate root protection areas and above ground construction techniques. Only those details which received written approval shall be implemented on site.

No details of the tree protection measures have been submitted with the first reserved matters.'

- 5.2.3 As a result of these comments a design review meeting was held with the applicant, the case officer and the **UDO** where the applicant was directed to consider the details of the consultee comments made (inc. those also received by the **Crime Prevention Design Advisor**). As a result of the comments and as an outcome of the meeting a package of amendments was subsequently submitted for consideration as detailed in the agents' narrative below. In addition the necessary tree protection details sought by the **TO** were also submitted (10 October 2017 – Arboricultural Impact Assessment and Tree Impact Assessment Plan) for consideration.

DESIGN/LANDSCAPING

Further to the meeting with you and Phil Smith please find attached the following revised drawings:

- 1. SH/CHEST/AP01 Revision L (email 1) ; and*
- 2. SH/CHEST/02-01-04 Cross Sections (email 2).*
- 3. We have also attached the an Ibstock Hardwicke Minster Cream brick detail (email 2) – see materials section below.*
- 4. A separate boundary treatment plan and hard landscape plan are being prepared and will be submitted early next week. We will also provide a SUDs statement and flow rate calculations to accompany the drainage scheme details submitted under the condition application.*

The site layout drawing has been generally reviewed to address your, urban design and highway officer comments most recently at the meeting. In summary, the latest layout covers the following points:

- 900mm railings and hedge planting added to scheme along main arterial route and in dominant locations.*
- Alignment of open space railings and hedging altered to be more linear.*
- The site layout now includes an informal footpath linking the POS at the site entrance to the existing PROW to the west of the entrance. Please note that following detailed inspection on site it is not possible to create a formalised surface / tarmac footpath route due to the proximity of the dense tree cover. This is proposed to be marked out as an informal route very similar to woodland tracks with potential for timber posts spaced at reasonable intervals to identify the general alignment of the route which will become more formally worn over time. We consider this is a suitable option and balances the provision of a suitable route with tree protection on the key road frontage.*
- Brick boundary wall details have been amended to be flush i.e. no piers and panels.*
- Plots 102 to 106 are now proposed with a brick wall boundary detail to provide additional quality and character to the secondary street and mews area off this street.*

- *The parking spaces for plot 103 have been repositioned to enable the introduction of additional landscaping within the mews area.*
- *Plot 44 has been handed and a footpath added to the front of plot 49, which creates an improved relationship to the street scene.*
- *The corner of plot 39 has similarly an improved relationship to the streetscene and moved away from highway with the introduction of a footpath in the area.*
- *Plots 68 & 69 have been rotated slightly to open up the vista to the north.*
- *Plots 81-84 and 87 and associated garages repositioned to accommodate 2m wide footpath as per highway comments.*
- *We have also added trees to the rear gardens of plots 13 – 26 to provide future screening of the development from Dunston Road.*

MATERIALS

- *We note Phil Smith is to review the materials layout plan (SH/CHEST/MAT02) submitted on 25 September 2017.*
- *We have also provided photographs/examples of where proposed materials have been used elsewhere on Strata Home schemes. The photos provide details of the Anstone Pitch Face Stone and Ibstock Anglican Beacon along with the concrete slate effect roof tile.*
- *Apologies we did not provide details of the second proposed brick type, the Ibstock Hardwicke Minster Cream and please find enclosed a detail accordingly.*

OPEN SPACE

- *The scheme in effect provides a range of open spaces which will provide for both recreational and visual amenity benefits. The main areas proposed for informal recreational use are the larger areas of open space to the west of the site frontage which reads visual with the woodland belt on Dunston Road and the area of open space directly to the north of this and located on the northern boundary. These two areas alone equate to 0.28ha.*
- *There are also extensive areas of open space with planting which are likely to form more of a visual asset including the woodland to the south and landscape areas to the east and north east of the side, which includes the ecological mitigation*

area. These areas of informal / wooded / ecology open space areas to total around 1.7ha.

- *With regard to the ecological mitigation area the advice from the ecology consultant is that there is no requirement for a fence to protect the ecology area in the north-east corner of the site. We have been advised that a fence of suitable robustness to keep people out may actually restrict wildlife movement in this area and this is likely to be more detrimental than not having the fence. Having visited the site Ian Corner from Strata can confirm that the approach to this area of the site is extremely steep and heavily wooded and by its nature is not really suitable for general access by the public. This is demonstrated by the attached cross section drawing. On that basis, we are not proposing to include provision of a fence on the boundary treatment plan which is in preparation.*

5.2.4 Overall having regard to the amendments presented it is considered that the applicant / developer has sought to address where possible the comments of the UDO and the changes made are welcomed as positive improvements to the design and appearance of the overall scheme. It is noted that the detailed hard landscaping plans are yet to be fully updated to reflect the amendments made and accordingly an appropriate condition can be imposed on any subsequent decision to allow these details to be submitted in full for further specification consideration.

5.2.5 It is considered that the scheme presents an appropriate design response that has due regard to the site constraints and opportunities which have been appropriately treated in the proposed site layout to ensure a good standard of design overall is achieved. The application submission is supported by working details of soft landscaping solutions which have been considered and are acceptable in principle. They offer appropriate response and legibility to the streetscene being created. A detailed materials schedule has been prepared by the developer selecting chosen brickwork and finishes to the individual plots – which are considered to be acceptable as they reflect the local vernacular.

5.2.6 The site has been laid out such that all adjacent neighbouring properties have an acceptable separation distance to the new dwellings and all gardens are of appropriate depth / scale to protect the privacy and amenity of neighbours and provide adequate amenity space commensurate with the requirements of

the Council's adopted SPD 'Successful Places – Housing Layout and Design.

5.2.7 Overall it is considered that the development proposals are acceptable. The design, density, layout, scale, mass and landscaping proposals are considered to comply with the provisions of policy CS2 and CS18 of the Core Strategy, the wider NPPF and the adopted SPD such that the scheme is acceptable in this regard.

5.3 **Highways Issues**

5.3.1 At the outline application stage the details of the site access were considered and agreed (resulting in condition 27 and 28 of the outline planning permission being imposed).

5.3.2 The Local Highways Authority (LHA) will continue to be involved in granting construction approval for the site access and any incidental highway works under S278 of the Highways Act. In addition the reserved matters detail the subject of this application must also be considered by the LHA having regard to the proposed design and layout on the internal access roads / turning heads (particularly if the developer intends for the access road to be considered for highway adoption in the future – S38).

5.3.3 Throughout the application process the LHA has provided detailed comments on the initial application submission and this led in part to the submission of site layout revisions. The LHAs initial response to the REM application was provided on 20/09/2017 and this highlighted a number of points of concern to the internal estate street layout. These comments were fed back to the applicant (who is looking to secure adoption of the internal street layout and therefore must meet with the standards of the LHA to secure this) and accordingly there has been an ongoing dialogue between the applicant and LHA to this effect. Longitudinal and cross section information has been provided and accepted in principle by the LHA and they have confirmed (07/11/2017) '*Given the construction proposed is considered to be sufficiently robust the Highway Authority would not be in a position to raise objection to what has been submitted, however, modifications would be required if the developer wishes to pursue future adoption of the estate streets. As identified there are still concerns regarding aspects of the layout*

the Highway Authority would wish to resolve before it may be in a position to sanction the proposals from a highways perspective.'

5.3.4 The latest comments of the LHA above were relayed back to the applicant / developer who accepted that subtle design tweaks to the overall layout were still needed in order address the outstanding matters of the LHA. The case officer however agreed with the applicant / developer there were no matters of principle at stake as a result of the amendments still needed to satisfy the LHA and therefore these details could be reserved by the imposition of an appropriate planning conditions if the principle of the layout was considered to be acceptable. Realistically the amendments to address the outstanding matters were minor and sufficient scope was worked into the layout to address these changes without significant alteration to the final layout as shown.

5.3.5 Overall therefore it is considered that in the context of policies CS2, CS18 and CS20 of the Core Strategy the proposed layout of phase 1 of the development is acceptable in principle; subject to minor design amendments being submitted to satisfy the outstanding concerns of the LHA detailed above. The LHA will continue to be involved in the construction approval of the internal road layout (as it is intended that the estate streets are to be adopted) and therefore the applicant / developer will be tied to meeting these requirements in order to ascertain final adoption. It is therefore more widely in the applicant / developers interest to resolve these issues.

5.4 **Technical Considerations**

5.4.1 The reserved matters application has been reviewed by a number of consultees (listed in section 1.0 above) having regard to matters concerning flood risk, drainage, ecology protection / enhancement, land condition and contamination; however these matters and the detailed matter thereof are all being dealt with under the various discharge of conditions applications which have also been submitted for consideration. Accordingly whilst some of the consultees have made comments in respect of this application reference; the matters they have raised are being dealt with separately in connection with each respective planning condition / discharge of conditions application.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 10/08/2017; by advertisement placed in the local press on 10/08/2017 and by neighbour notification letters sent on 01/08/2017. As a result of the applications publicity there have been two letters of representation received as follows:

A Local Resident

I like the proposed buildings' appearance and use of appropriate materials.

I especially like the 3 storey corner buildings.

Noted

11 Halesworth Close, Walton (Chesterfield Ramblers)

Stance: Customer made comments neither objecting to or supporting the Planning Application / Comment Reasons: Traffic or Highways / Comment: The wooded section of FP52 from Dunston Rd requires vegetation clearance.

Noted and referred to the DCC Rights of Way team as the public footpath lies outside of the application site.

Chesterfield Cycle Campaign

Use of brownfield land is admirable but no thought is given to sustainable transport. The nearest bus service is several hundred metres away from the development. If any residents considered walking to the nearest bus stop they would find this extremely hazardous because there are no pavements on Dunston Road. There is no provision for a safe cycling route to connect this site to the Chesterfield Cycle Network. Had our comments about previous planning applications in this area (Dunston Lane, Rugby club site etc) been made a condition (and enforced) there could have been a network of shared paths built up leading to Whittington Moor roundabout and the Stonegravels Way. As a very minimum the developers should build a shared path from the site entrance to the junction with Dunston Lane. There is ample width on the Sheepbridge side of the road. This development remains isolated from the sustainable travel network and so will promote car use. The site is nowhere near a school so inevitably children will be driven to schools as well.

We quote PPG 13;

4. The objectives of this guidance are to integrate planning and transport at the national, regional, strategic and local level to:
- promote more sustainable transport choices for both people and for moving freight
 - promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling
 - reduce the need to travel, especially by car

This development fails to meet these objectives. This development also fails Chesterfield Local Plan CS20 'Influencing the Demand for Travel';

- a) Prioritisation of pedestrian and cycle access to and within the site
- b) Protection of, or improvements to the strategic pedestrian and cycle network

There seems little point in these documents and policies when they are consistently ignored.

The above comments are noted however the opportunity to incorporate such infrastructure off site into any development is taken at the outline stage and not at reserved matters stage. The Council were aware of the shortfalls of the location in so far as sustainable travel options at the time that outline planning permission was granted.

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.

7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development 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 objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUSION**

9.1 The proposals are considered to be appropriately designed having regard to the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. As such, the proposal accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

9.2 The outline planning permission already includes appropriate planning conditions such that the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS10 of the Core Strategy and the wider NPPF in respect of technical considerations.

10.0 **RECOMMENDATION**

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

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

SH/CHEST/LP01 - LOCATION PLAN

House Types

MY (08-V1-2) REV 09 AND MY (09-V1-4) REV 08 – MILAN (FLOOR PLAN & ELEVATIONS)

MY (07-V2-3) REV 10, 12, 13 AND 14 - PARETTI V2 (FLOOR PLAN & ELEVATIONS)

MY (03-V1-4) AND MY (10-V1-4) REV 20 – BARCELONA AND MADRID (FLOOR PLAN & ELEVATIONS)

MY (04-V10-4) REV 10 AND 11 – BOLOGNA (FLOOR PLAN & ELEVATIONS)

MY (04-V11-4) REV 11 AND 12 – CATANIA (FLOOR PLAN & ELEVATIONS)

MY (09-V1-4) REV 08 AND 09 – VENICE (FLOOR PLAN & ELEVATIONS)

MY (19-V1-4) REV 10G AND 11G – COLOGNE (FLOOR PLAN & ELEVATIONS)

MY (17-V1-4) REV 10, 11 AND 12 – VIENNA (FLOOR PLAN & ELEVATIONS)

MY (11-V2-4) REV 11 AND 12 – STOCKHOLM (FLOOR PLAN & ELEVATIONS)

MY (13-V-1-4) REV 10, 11 AND 16 – OPORTO (FLOOR PLAN & ELEVATIONS)

MY (02-V6-5) REV 11, 12 AND 13 – PALERMO (FLOOR PLAN & ELEVATIONS)

MY (02-V7-5) REV 01, 02 AND 03 – LAUSANNE (FLOOR PLAN & ELEVATIONS)

MY (20-V1-5) REV 10 – BORDEAUX (FLOOR PLAN & ELEVATIONS)

MY (14-V1-5) REV 10 AND 11 – VALENCIA (FLOOR PLAN & ELEVATIONS)

Garages

PA/WY/SG1 REV A – SINGLE GARAGE (FRONT TO BACK ROOF)

PA/WY/DG3 REV A – TWIN GARAGE (FRONT TO BACK ROOF)

Site Layout

SH/CHEST/AP01 REV L – APPRAISAL LAYOUT

SH/CHEST/02/01/04 – CROSS SECTIONS

SH/CHEST/MAT02 – MATERIALS LAYOUT

Engineering Details

1076-1C – ENGINEERING LAYOUT

1076-5B – MANHOLE SCHEDULE

1076-2-1B - LONGITUDINAL SECTIONS

1076-2-2B - LONGITUDINAL SECTIONS

1076-2-3B - LONGITUDINAL SECTIONS

1076-2-4B - LONGITUDINAL SECTIONS

1076-2-5B - LONGITUDINAL SECTIONS

1076-2-6B - LONGITUDINAL SECTIONS

1076-9-1A – HIGHWAY CONSTRUCTION

1076-9-2A – HIGHWAY CONSTRUCTION

Landscaping

1501-01B (SHEET 1 OF 4) - DETAILED LANDSCAPE PROPOSALS

1501-02B (SHEET 2 OF 4) - DETAILED LANDSCAPE PROPOSALS

1501-03B (SHEET 3 OF 4) - DETAILED LANDSCAPE PROPOSALS

1501-04B (SHEET 4 OF 4) - DETAILED LANDSCAPE PROPOSALS

1501-05B (MASTERPLAN) – LANDSCAPE MASTERPLAN

SH/CHEST/AP04 – SURFACING PLAN

SH/CHEST/AP05 – BOUNDARY TREATMENTS PLAN

Documents

Arboricultural Impact Assessment (ref. BA6021AIA)

BA6021AIA - Tree Impact Assessment Plan

Planning Statement

Landscape Management Proposals

Covering Letter

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

02. Notwithstanding the details accompanying this reserved matters application, no development shall take place until construction details of the internal residential estate roads and footways (including layout, levels, gradients, surfacing, lighting and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

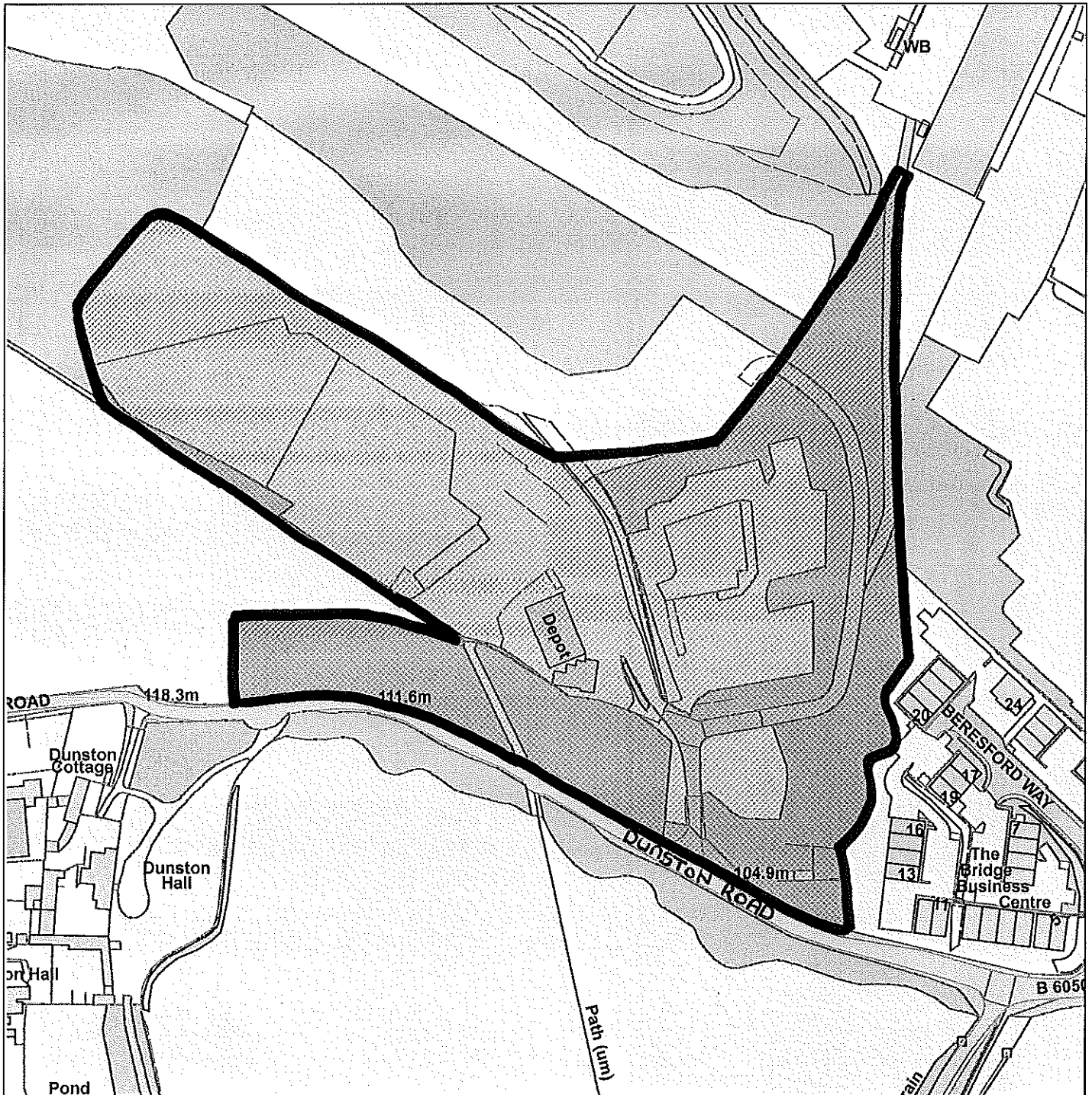
03. Notwithstanding the details accompanying this reserved matters application, within 2 months of the commencement of development further hard landscaping details shall be submitted to the Local Planning Authority for consideration and subsequent approval in writing. Only those details agreed shall be implemented on site.

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

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This permission is granted further to an earlier grant of outline planning permission to which any developer should also refer.

PLAN - CHE/17/00326/REM - CAMAC COAL
Dunston Road.



Scale : 1:2667

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Organisation	Not Set
Department	Not Set
Comments	
Date	09 November 2017
SLA Number	Not Set

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Agenda Item 5

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	20 TH NOVEMBER 2017
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by Development Management and Conservation Manager under the following Delegation references:- Planning Applications P020D, P200D to P250D, P270D to P320D, P350D to P370D, P390D, P420D to P440D Agricultural and Telecommunications P330D and P340D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only.
Anyone requiring further information on any of the matters
contained in this report should contact:-

Planning Applications	Paul Staniforth	345781
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Delegated List
Planning Applications

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/17/00114/FUL 5913	Linacre	Single storey side and rear extension (Revised drawings received 21.08.2017) At 46 Spring House Close Holme Hall Chesterfield S42 7PD For Mr Richard Houghton	CP	23/10/2017
CHE/17/00305/LBC 554	Barrow Hill And New Whittington	Provide and fix new aluminium glazing bars with purpose made glazing capping, fix 8 new reinforced glazing panels to match existing and resecure all glazing bars and make watertight and minor repairs to surrounding slate roofs where scaffold is accessible At Brearley Hall Woodmere Drive Old Whittington S41 9TA For Brearley Hall Ltd	CP	20/10/2017
CHE/17/00334/FUL 2133	Brockwell	Replacement of the existing window units and the proposed installation of 2 No. personnel doors on the east facing elevation. Accompany to prior notification submission for conversion of vacant building to residential use CHE/17/00230/TCU At 10B Marsden Street Chesterfield Derbyshire S40 1JY For ASW Consultants LTD	CP	16/10/2017

Code No
Proposal
Decision Date
FileNo

Ward
Decision

CHE/17/00375/REM	St Leonards	Approval of reserved matters of CHE/16/00508/OUT - Outline planning application for the construction of two blocks of linked townhouses and one bungalow At Hady Miners Welfare Club Houldsworth Drive Hady S41 0BS For Mr Mark Noakes	CP	08/11/2017
1070				
CHE/17/00425/FUL	St Leonards	Installation of extractor equipment and as amended by revised retrospective plans received 20.9.17 and amended site location plan received 20.10.17 At 5 Stephenson Place Chesterfield S40 1XL For Miss Monica Sardisco	CP	23/10/2017
1508				
CHE/17/00453/FUL	Hasland	Proposed new unit for B1, B2 and B8 use with parking (revised plans received 11.10.2017) At Turnoaks Business Park Burley Close Chesterfield S40 2UB For Altek Europe Ltd	CP	31/10/2017
1317				

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/17/00516/FUL 190	Lowgates And Woodthorpe	Hydrogen generation unit (20ft iso container), a hydrogen compressor (20ft iso container) and a hydrogen dispensing unit. The hydrogen generation unit, and the hydrogen compressor and a buffer tank are surrounded on two sides by a 2.5m high fire wall and fencing. Outside this fencing there will be an access road leading up to a concrete refuelling pad directly in front of a hydrogen dispensing unit. The access road will be form a semi-circle with two dropped kerbs allowing access from Colliery Close. At Colliery House Colliery Close Staveley S43 3QE For ITM Power (Trading) Ltd.	CP	09/11/2017
CHE/17/00591/FUL 1483	West	Erection of a two storey side/rear extension At 48 Glenthorne Close Chesterfield For Mr and Mrs Robson	CP	02/11/2017
CHE/17/00599/COU	St Leonards	Change of use from bridal shop to a bar including installation of further toilet facilities. Amended site location plan received 20.10.2017 At 37 Holywell Street Chesterfield For Mr Justin Fleming	CP	23/10/2017
CHE/17/00611/FUL	Rother	Single storey extension At Wood View 7 Florence Close Birdholme S40 2JL For Mr Mark Wood	CP	19/10/2017

Code No FileNo	Ward	Proposal	Decision	Decision Date
CHE/17/00613/FUL	West	Erection of a rear extension and removal of existing detached garage At 1 Poplar Avenue Somersall S40 3JT For Mrs S Gretton	CP	24/10/2017
CHE/17/00614/ADV	St Leonards	1 new suspended LED illuminated logo over the entrance to replace existing, 1 new surface fixed LED illuminated logo over the window to replace existing 2 new double sided projecting signs LED part illuminated logo box, one next to main entrance and one over the window to replace existing At 18 Vicar Lane Chesterfield S40 1PY For H and M Hennes and Mauritz UK and Ireland	CP	17/10/2017
5735				
CHE/17/00617/FUL	Brockwell	Two storey side extension, single storey rear extension and detached garage. Revised plans received 25 September 2017. At 40 Mansfeldt Road Newbold S41 7BW For Mr J Bedford	CP	16/10/2017
CHE/17/00618/FUL	Walton	Proposed first floor side extension At 53 Foljambe Avenue Walton S40 3EY For Mr Barry Ward	CP	20/10/2017
3904				

CHE/17/00619/FUL	St Leonards	Proposed new shop front and siting of AC condensers on plant deck. At 25 - 27 Vicar Lane Chesterfield S40 1PY For Deichmann Shoes UK Ltd	CP	18/10/2017
CHE/17/00620/ADV 5735	St Leonards	Fascia sign and projecting sign. At 25-27 Vicar Lane Chesterfield S40 1PY For Deichmann Shoes UK Ltd	CP	18/10/2017
CHE/17/00621/FUL	Brockwell	Two storey side/front extension. Parking plan received 5.10.17 At 5 Holmebank West Brockwell Chesterfield S40 4AS For Mr John Wall	CP	01/11/2017
CHE/17/00623/COU 6490	Brockwell	Change of use from D1 to C3 (A) Residential At 54 Rutland Road Chesterfield Derbyshire S40 1LY For Mrs Susan Cooper	CP	31/10/2017
CHE/17/00626/FUL 3183	Holmebrook	Proposed change of use of end terrace property into 2 No. 1 bed flat units At 64 Chester Street Chesterfield Derbyshire S40 1DW For Mr Raj Dhir	CP	19/10/2017

Ward
Decision
FileNo

CHE/17/00629/FUL	Hasland	Retention of an ATM installed through the glazed shop front to the single storey flat roof extension to the right. Replacing glazing to the window to the right of the fixed closed glazed door with new white laminate security infill panels incorporating the ATM. NCR 5887. The internal security roller shutter has been modified to allow constant use of the ATM. Yellow Box Privacy Zone demarcation has been applied to the ground in front of the ATM. Two black steel bollards have been installed in front of the ATM	CP	03/11/2017
2/2452		At Spar 58 Mansfield Road Hasland Derbyshire S41 0JF For Cardtronics Service Solutions Ltd		
CHE/17/00630/ADV	Hasland	Illuminated polycarbonate black and green surround signage with illuminated white lettering "free cash withdrawals and balance enquiries" and "cash zone" Halo illumination to polycarbonate surround. Illuminated signage to ATM fascia. Green acrylic sign with white lettering "cashzone" and accepted card logos.	CP	03/11/2017
2/2452		At Spar 58 Mansfield Road Hasland S41 0JF For Cardtronics Service Solutions Ltd		
CHE/17/00633/TPO	Brimington North	Works to lime tree At Devonshire Park Devonshire Street Brimington S43 1GA	CP	07/11/2017
2887				

Ward
Decision
FileNo

CHE/17/00635/FUL	Brimington South	Hip to gable loft conversion with rooflights on the front elevation and a dormer on the rear elevation. At 340 Brimington Road Tapton 41 OTF For Mrs H Peet	CP	19/10/2017
S				
CHE/17/00639/RET	Lowgates And Woodthorpe	Resubmission of CHE/16/00780/RET - CP Removal of fence and hedge to replace with wooden fencing and reduce the height of fencing to front At 1 Tollbridge Road Woodthorpe S43 3BL For Miss Linda Kinsey	CP	18/10/2017
2057				
CHE/17/00641/TPO	West	Fell 3 Pine trees adjacent to the gable of the house. not only are they causing subsidence but they have insufficient amenity value to justify protection. At 392 Ashgate Road Chesterfield S40 4DD For Mr Roger Myddelton	REF	19/10/2017
308				
CHE/17/00648/FUL	Moor	Single storey extension to garage, with new roof and rear canopy At 9 Lansdowne Avenue Newbold S41 8PL For Mr Rob Hemming	CP	09/11/2017
CHE/17/00650/FUL	Hollingwood And Inkersall	Ground floor extension to the rear elevation At 63 Hollingwood Crescent Hollingwood S43 2HF For Mrs Melissa Hoult	CP	01/11/2017
1073				

CHE/17/00654/FUL	Walton	Resubmission for application	CP	02/11/2017
4338		CHE/17/00276/FUL (for proposed two storey side extension and replacement front porch) to include room in roof. At 191 Whitecotes Lane Walton S40 3HJ For Mr Roger Brailsford		
CHE/17/00657/ADV	Moor	1 internally illuminated "Mercedes-Benz" letter set	CP	07/11/2017
271		At Mercedes Benz Lockoford Lane Tapton S41 7JB For Mercedes-Benz UK		
CHE/17/00662/FUL	Loundsley Green	Single storey side and front extension	CP	08/11/2017
131		At 2 Nevis Close Loundsley Green Chesterfield S40 4NS For Mr and Mrs Amissah-Berntsson		
CHE/17/00664/CA	Old Whittington	Removal of tree branches encroaching onto Manor Farm Church Street North	UP	07/11/2017
371		At St Bartholomews Church Church Street North Old Whittington Derbyshire S41 9QW For Miss Lucinda Lister		
CHE/17/00666/TPO	St Leonards	Crown lift and crown thin including pulling in some long branches of T7 (large sycamore) and crown lift and crown thin including pulling in some large long branches of T135 (large copper beech)	SC	06/11/2017
		At St Peter and St Paul School Hady Hill Hady S41 0EF For St Peter and St Pauls School		

CHE/17/00671/TPO West	Remove dead wood and thin crowns on CP trees T24, T25 and T26 At 42 Netherleigh Road Ashgate Chesterfield S40 3QJ For Mr Peter Passmore		18/10/2017
CHE/17/00676/FUL Walton 279	Extension and alteration to dwelling At 3 Wentworth Avenue Walton S40 3JB For Rachael Stapleton	CP	08/11/2017
CHE/17/00681/DOC Dunston	Discharge of planning conditions 4 and 24 of approved application CHE/16/00016/OUT re-submission of CHE/14/00873/OUT - Residential development along with associated access, public open space, landscaping and surface water balancing (all matters reserved save for means of access into the site) At Land To The West Of Dunston Lane Newbold For William Davis Ltd	DPC	08/11/2017
CHE/17/00684/DOC Hollingwood And Inkersall 1073	Discharge of Condition Nos. 9 (Site Investigation) and No.11 (Specifications and Samples of Materials) - Planning Application CHE/17/00068/FUL (Proposed new dormer bungalow within the curtilage of 7 Myrtle Grove) At 7 Myrtle Grove Hollingwood S43 2LN For Mr Shaun Cooper	DPC	24/10/2017

CHE/17/00693/LBC	St Leonards	Redecoration and repair of existing CP shop front and new none illuminated signage		02/11/2017
2106		At 47 Low Pavement Chesterfield S40 1PB For J G Foods Ltd		
CHE/17/00696/TPD	Brockwell	Kitchen and shower room extension and utility room extension to end of garage	PANR	18/10/2017
		At 33 Highfield Lane Newbold S41 8AZ For Mrs G Roberts		
CHE/17/00697/TPO	Rother	Ash Tree - Height reduction - crown lift to 3.5m and crown thin to 25%	SC	07/11/2017
1002		At 11 Whitecotes Park Chesterfield S40 3RT For Mr P Arscott		
CHE/17/00699/TPD	Brockwell	Single storey rear extension	PANR	18/10/2017
1746		At 25 Larch Way Brockwell Chesterfield S40 4EU For Mr Ross Metcalfe		
CHE/17/00701/TPO	Middlecroft And Poolsbrook	T6 - Reduction in height to leave main stem to height of 6-8 metres	CP	08/11/2017
T7 - Fell 2423		At 47 Paisley Close Staveley Derbyshire S43 3NS For Neighbourhoods Team		
CHE/17/00704/FUL	Middlecroft And Poolsbrook	Detached garage	CP	02/11/2017
1705 1705		At 3 Litton Close Staveley Derbyshire S43 3TD For Mr Darren Norton		

CHE/17/00723/PA	Brockwell Conversion of first and second floor office space to form 4no studio apartments and associated storage space		07/11/2017
3320	At Derbyshire Carers Association 69 West Bars Chesterfield S40 1BA For Sycamore Estates		
CHE/17/00728/CPO	Dunston Relocation and extension of security fencing	OW	20/10/2017
1472	At Gilbert Heathcote Infant and Nursery School Sheffield Road Whittington Moor Derbyshire S41 8NF For Mr Dave Massingham		
CHE/17/00734/DOC	Dunston Discharge of condition 15 (employment and training scheme) of CHE/16/00016/OUT - Residential development along with associated access, public open space, landscaping and surface water balancing (all matters reserved save for means of access into the site)	DPC	23/10/2017
	At Land To The West Of Dunston Lane Newbold For William Davis Ltd		
CHE/17/00743/TPD	Walton Extension to rear of detached property. Replacing & exceeding plan layout of existing conservatory. Traditional cavity wall and tiled pitched roof to match existing building.	PANR	03/11/2017
	At 4 Bunting Close Walton S42 7NU For Mrs Jane Christian		

CHE/17/00745/LBC Hollingwood To fix blue plaque on entrance to
And Inkersall Ringwood Hall

CP

02/11/2017

2538

At
Ringwood Hall
Chesterfield Road
Brimington
S43 1DQ
For
Chesterfield & District Civic Society

Delegated List - Planning Applications

Key to Decisions

Code	Description
AC	Historic
AP	Historic
APPRET	Application returned to applicant
CI	Called in by secretary of state
CIRNO	Circular 18/84 no objection
CNOCO	Circular 18/84 no objs but conditions
CONCOM	Confirmation Compliance with Conditions
CP	Conditional permission
CPEOTZ	Conditional Permission Extension of Time
CPMAZ	Conditional consent for material amendment
CPRE1Z	Conditional Permission Vary Conditions
CPRET	Conditional Approval Retrospective
DPC	Discharge of Planning Conditions
FDO	Finally Disposed Of
GR CLOPUD	CLOPUD Granted
GRANT CLUD	CLUD Granted
GRNTEX	Permission Granted with Exemption
ND	Non Development
OBJ	Other Council objection
OC	Other Council no obj with comments
OW	Other Council no obj without comments
PA	Prior Notification Approval
PADEM	Prior Notification Demolition Approve
PD	Found to be Permitted Development
PR	Prior Notification Refusal
RAP	Retrospective Application Refused
RARETZ	Retrospective Application Approved
RC	Application Refused
REF	Refused
RETAP	DO NOT USE
RETRFZ	Retrospective Application Refused
RF CLODUP	CLOPUD Refused
RTN	Invalid Application Returned
S106	S106 Approved pending planning obligation
SC	Split decision with conditions
SU	Split decision - approval unconditional
UP	Unconditional permission
UPRET	Unconditional Approval Retrospective
WDN	Withdrawn
XXXXXX	Recommendation Pending

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COMMITTEE/SUB	Planning Committee
DATE OF MEETING	20 TH NOVEMBER 2017
TITLE	DELEGATION
PUBLICITY	For Publication
CONTENTS	Items approved by the Development Management and Conservation Manager under the following Delegation references:- Felling and Pruning of Trees P100D, P120D, P130D
RECOMMENDATIONS	Not applicable
LIST OF BACKGROUND PAPERS	Relevant applications

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact:-

Applications to Fell or Prune Trees	Steve Perry	345791
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SECTION 1**APPLICATION TO FELL OR PRUNE TREES**

<u>CODE NO</u>	<u>DESCRIPTION OF PROPOSAL</u>	<u>TERMS OF DECISION</u>
CHE/17/00641/TPO TPO 4901.7 19/10/17	The felling of 3 Pine trees within G2 on the Order map for Anderson tree care on behalf of Mr Myddelton of 392 Ashgate Road, Ashgate. The trees are allegedly causing the movement of the dwelling and the trees have little amenity value.	Consent is refused to the felling of 3 Pine trees because the trees have good amenity value and can be seen from the surrounding road network, have good shape and form and contribute to the character of the area. No level monitoring data was provided with the application to confirm whether or not there is seasonal movement of the dwelling caused by the row of Pine trees
CHE/17/00666/TPO TPO 4901.117 06/11/17	The felling of one Beech tree reference T169 and the pruning of 30 trees reference T7, T116, T117, T118, T120, T151 & T152 Sycamore, T112 & T113 Lime, T114, T115, T121, T126, T129, T131, T136 & T137 Yew, T119, T124, T134, T135 & T139 Beech, T122 & T127 Weeping Ash, T123 & T128 Holly, T125 Cedar and T130, T132 & T133 Pear on the Order Map Ken Portas tree services on behalf of St Peter & St Paul School, Hady Hill.	Consent is granted to the felling of one Beech tree reference T169 by virtue of Part VIII, Chapter 1, Section 198, paragraph 6(a) of the Town and Country Planning Act 1990 as amended under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, which has provision for dead and dangerous trees, Section 206, paragraph 1(b) of the same Act requires any dead/dangerous tree to be felled under Section 198 to be replaced during the next available planting season. The replacement

		<p>tree is to be one standard sized Oak.</p> <p>Consent is also granted to the crown lifting, crown thinning and reduction of branches growing towards the school building of 28 trees and the pollarding of 2 Sycamore's due to safety reasons.</p>
<p>CHE/17/00633/TPO</p> <p>TPO 4901.202</p> <p>07/11/17</p>	<p>The pruning of one Lime tree reference T2 on the Order map for Mrs Bulko of 28 Devonshire Street, Brimington. The tree is allegedly blocking out light and touching the dwelling. The tree is located in Devonshire Park, Brimington.</p>	<p>Consent is granted to the reduction of branches growing towards the property to give a 1 metre clearance from the structure and boundary pruning back to suitable replacement branches.</p>
<p>CHE/17/00697/TPO</p> <p>TPO 4901.113</p> <p>07/11/17</p>	<p>The pruning of one Ash tree reference T4 on the Order map for Mr Arscott of 11 Whitecote Park, Boythorpe. The tree is allegedly blocking out sunlight to the solar panel.</p>	<p>Consent is refused to the crown reduction of one tree because the reduction of the crown would reduce the amenity value of the tree, other more acceptable pruning methods are available and an assessment should have been carried out before the solar panel was installed.</p> <p>Consent is granted to a crown thin and crown lift to allow light to filter through the tree.</p>
<p>CHE/17/00701/TPO</p>	<p>The felling of one Ash tree reference T7 and the pruning of one Ash tree</p>	<p>Consent is granted to the crown reduction of T6 Ash to create a high pollard and the</p>

<p>TPO 4901.141</p> <p>08/11/17</p>	<p>reference T6 on the Order map for Chesterfield Borough Council Housing Services. T6 Ash has been found to have decay at the base of the tree so requires a heavy crown reduction to create a high pollard. The tree is part of an old hedgerow with veteran tree characteristics and wildlife value so is to be retained but the reduction of the tree will leave the adjacent Ash vulnerable to windthrow from suddenly being exposed to the elements it is not used to.</p>	<p>felling of T7 Ash with a condition to plant a Beech tree in the adjacent grassed area in the first available planting season.</p>
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SECTION 2**NOTIFICATION OF INTENT TO AFFECT TREES IN A CONSERVATION AREA**

<u>CONTENTS OF NOTICE</u>	<u>SUMMARY OF CONSIDERATIONS</u>	<u>TERMS OF DECISION</u>	<u>DATE OF DECISION</u>
CHE/17/00664/CA The pruning of 2 Sycamore trees for Miss L. Lister at Bartholomew's Church, Old Whittington.	The trees are within the Old Whittington Conservation Area and the applicant wishes to prune the trees because of the low branches hitting the lighting columns to the menage at Manor Farm, Church Street North, Old Whittington.	Agreement to the pruning of two Sycamore trees. The pruning of the trees will have no adverse effect on the amenity value of the area.	07/11/17

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AGENDA ITEM

APPEALS REPORT

MEETING: PLANNING COMMITTEE
DATE: 20TH NOVEMBER 2017
REPORT BY: DEVELOPMENT MANAGEMENT AND
CONSERVATION MANAGER

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS

TITLE

LOCATION

Non exempt papers on files
referred to in report

Development Management
Section
Planning Service
Town Hall Chesterfield

1.0 PURPOSE OF REPORT

- 1.1 To inform Members regarding the current status of appeals being dealt with by the Council.

**PAUL STANIFORTH
DEVELOPMENT MANAGEMENT AND CONSERVATION
MANAGER**

These are reported to Planning Committee for information only. Anyone requiring further information on any of the matters contained in this report should contact Paul Staniforth on 01246 345781.

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APPEALS

<u>FILE NO.</u>	<u>APPLICATION CODE & WARD</u>	<u>APPELLANT</u>	<u>CASE</u>	<u>MEMBER OFFICER</u>	<u>DATE REC</u>	<u>TYPE AND DATE</u>	<u>DECISION AND DATE</u>
2/4071	Moor ward	Mr D Revitt	10 Pottery Lane West Excavation of rear garden area – Enforcement Notice Ground c (works are permitted development)	Planning Committee	28/02/17	Written Reps	
2/1286	Walton ward	Mr A James	CHE/17/00240/FUL – Dwelling on land adj 2 Hazel Drive – Refusal	Officer Delegated	22/6/17	Written Reps	Allowed 01/11/17 see appendix B
2/2880	St Leonards ward	Mr Baljinder Singh-Sall	15 Lincoln Street Raising ground levels and use. Enforcement Notice (Grounds (c) and (g) – There has been no breach and time for compliance is too short	Planning Committee	30/06/17	Written Reps	Dismissed + Costs for 20/10/17 see Appendix A
2/3991	Hasland ward	Mr N Chadwick	2 York Street Two vending machines . Enforcement Notice (Grounds (a), (b), (c) and (f). Planning permission ought to be granted, the matters alleged have not occurred, there has been no breach and the steps required are excessive.	Planning Committee	09/08/17	Written Reps	

2/6147	West ward	Mr M Hopkinson	CHE/17/00365/FUL – Second Storey Side extension at 31 Queen Mary Road - Refusal	Officer Delegated	22/09/17	Written Reps	
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Appendix A

Appeal by Mr Baljinder Singh-Sail Site at Lincoln Street, Chesterfield. 2/2880

1. An Enforcement Notice was served on 17th May 2017 requiring the removal of additional hardsurfaced to the rear of 15 Lincoln Street. The extended hard surface had been formed by use of imported materials, raising the height of the land by 300mm to 400mm.
The period for compliance with the requirements was three months
2. An appeal against the notice was made on grounds (c) and (g) and which has been dismissed and the notice upheld. Full costs have also been awarded against the appellant in the case.

Procedural matter

3. Section 4 of an enforcement notice contains the reasons for issuing it and the relevant period for immunity from enforcement; either 4 or 10 years. As drafted the notice states that the breach of planning control occurred within the last ten years. However, the alleged breach at Section 3 relates to operational development for which there is an immunity period of 4 years. The inspector therefore corrected the notice accordingly using the powers available to me under Section 176(1) of the Act.

The appeal on ground (c)

4. A ground (c) appeal is that the matters alleged in Section 3 of the enforcement notice do not constitute a breach of planning control; in this case operational development comprising of the raising of ground levels and the extension of an area of hardstanding. The burden of proof in legal grounds of appeal, including ground (c), rests with the appellant, and the test of the evidence is the balance of probability.
5. The appeal site is a large area of open land to the rear of No. 15 Lincoln Street. The appellant does not deny that there has been a breach of planning control as alleged.

Instead he states that a waste company to whom he had leased the land may be responsible for the breach and that obtaining planning permission was their responsibility. Also, that deposition of additional materials stopped after he instructed the company to stop until the issue had been resolved. However, those are not arguments or evidence that there has not been a breach of planning control; it merely contends that the breach was carried out by someone other than the appellant. No other evidence or argument is made to demonstrate that there has not been a breach of planning control.

6. It was clear to the inspector from his inspection of the site, and also from his analysis of photographic evidence taken during earlier successive site inspections by Council officers, that a very substantial amount of material has been deposited on the land and compacted to raise land levels and form the area of hardstanding indicated by the area hatched in black on the plan attached to the enforcement notice. Given the extent and quantity of material deposited to form a compacted area of land, it constitutes a significant engineering operation and is thereby “development” as defined by Section 55 of the Act for which planning permission is required. Since no planning permission has been granted for the development it constitutes a breach of planning control as defined by Section 171A(1)(a) of the Act. Therefore the appeal on ground (c) that there has not been a breach of planning control fails.

The appeal on ground (g)

7. The ground of appeal is that the period for compliance, in this case 3 months, falls unreasonably short of what should be allowed. The appellant states that as he was not in control of the land at the time of the breach he was unable to remedy the breach. However, while it is not relevant to the ground (g) appeal, the inspector noted that he accepts in his evidence that he was the owner at that time, and also confirms that at the time of lodging the appeal he remains the landowner. As to whether the compliance period is unreasonably short, he has not suggested a longer period. Moreover, he has not provided any explanation of why 3 months would be an

unreasonably short period of time in which to carry out the necessary works in order to achieve compliance. To conclude, the inspector saw no reason why the necessary works to comply with the notice could not be carried out within 3 months from the date of this decision (the date the notice comes into effect), and there is no persuasive argument made by the appellant as to why any longer period should be granted. The appeal on ground (g) therefore fails.

Costs application

8. Planning Policy Guidance advises that irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Awards against appellants may be either procedural in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the merits of the appeal. Examples of unreasonable behaviour which may lead to an award of costs against an appellant are referred to in the PPG.
9. The Council's application was made on the basis of unreasonable behaviour in relation to substantive matters in that the appellant did not support his case evidentially, and that it had no real prospect of success.

The appeal on ground (c)

10. The Council provided a detailed statement of case and photographic evidence of the breach which supported their case. This was not resisted evidentially by the appellant in his ground (c) appeal. Rather than submitting evidence to argue that there had not been a breach of planning control, the appellant acknowledged that the breach had in fact taken place. In his response to the costs application the appellant sought to introduce new evidence relative to the appeal in that the Council had granted a waste exemption certificate to the leasehold company to import waste. That of course is not accurate as the body for issuing such licences is the Environment Agency, not the Council. In any event, such a licence does not bypass the need for planning permission, and it is not evidence that the matters alleged in Section 3 of

the enforcement notice did not constitute a breach of planning control.

The appeal on ground (g)

11. The appellant did not make out a distinctive case as to why the 3 month compliance period was too short, or argue what longer period he considered was necessary. In response to the Council's application for costs the appellant stated that he had argued 3 months was not long enough because he had hoped the appeal would be determined in his favour. Clearly, that does not provide argument or evidence as to why the period in which the notice should be complied with, assuming the notice is upheld, would be unreasonably short.
12. For all the above reasons the inspector found in respect of both grounds of appeal that the appellant failed to make out a reasonable case based on evidence, and that consequently the appeals had no real prospect of success. He therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, had been demonstrated and that a full award of costs is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Baljinder Singh-Sall shall pay to Chesterfield Borough Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Appendix B

Appeal by Mr Alan James

Site adjacent to 2 Hazel Drive, Walton, Chesterfield.

CHE/17/00240/FUL

2/1286

1. Planning permission was refused on 24th May 2017 for the development of a single storey dwelling on land between 148 Walton Road and 2 Hazel Drive for the following reasons:

In terms of residential amenity the proposal offers an under provision of private amenity space in respect of its size and utility. It also would offer a poor outlook for the future occupants from the proposed rear facing bedroom windows. The close relationship with No.146 Walton Road and No.2 Hazel Drive would lead to a scheme that would appear to be dominant and overbearing as experienced from these properties and would lead to a loss of light to the kitchen in No.2 Hazel Drive.

In terms of visual amenity the proposal would result in a cramped form of development which would be uncharacteristic compared with the existing pattern of development in the local area.

This ensures that the proposal is considered to be in conflict with Policy CS18 of the Chesterfield Borough Council Local Plan: Core Strategy (2013) and guidance contained within Supplementary Planning Guidance Successful Places: A Guide to Sustainable Housing Layout and Design (2013).

3. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
4. The main issues are the effect of the proposed development on the character and appearance of the area and on the living conditions of future occupiers of the building and the occupiers of neighbouring dwellings.
5. Hazel Drive is an eclectic mixture of dwellings with no obvious prevailing characteristic other than an absence of terraced properties. In close proximity to the appeal site there are detached and semi-detached properties, bungalows and two storey houses and both pre- and post-war developments.

Many of the properties are set in large plots, but there are exceptions, including the gated development at The Hazelmeres whose entrance is 40 metres or so east of the appeal site along Hazel Drive. The appeal site sits close to the junction between Hazel Drive and Walton Road and is a largely unmaintained plot of land. The site fronts Hazel Drive and appears to have been part of the garden to 148 Walton Road, which is the corner property on the junction. The site is bounded by No 148 to the west, the rear garden of 146 Walton Road to the north, and the front garden and side elevation of 2 Hazel Drive to the east. There is a dry stone wall along the frontage with Hazel Drive and some mature vegetation.

6. The proposed development is for a single-storey two-bedroom property that would be built towards the rear of the site and within two metres or so of the boundary. The bedrooms would be at the rear of the house with the windows facing the boundary. There would be a gate to the western side of the house giving access to a small rear garden area approximately seven metres by four metres together with the space between the rear boundary and the rear elevation. To the front of the house would be a larger area that would comprise garden land and a vehicle hardstanding. The vehicle access would require the removal of part of the existing dry stone wall.
7. There is an extensive history of unsuccessful planning applications for the site and subsequently dismissed appeals. The inspector considered that the current proposal has been carefully designed to address the concerns expressed by Inspectors determining those appeals. The appeal decisions are a material consideration to which significant weight is attached however, the inspector commented that this appeal should be determined on its own merits.

Character and Appearance

8. The proposed building would occupy much of the width of the appeal site, which is a common characteristic of dwellings in the area. The architectural style reflects many of the elements of nearby properties and the inspector concurred with the Inspectors who found that the appearance and principle of development to be acceptable. Two schemes that proposed a

front elevation well forward of neighbouring properties were unsuccessful at appeal as amongst other things the Inspectors considered the pre-existing building line to be an important characteristic. The current proposal would see the front elevation in line with other properties on Hazel Drive which the inspector considered to have resolved this issue. A further concern shared by the Inspectors in each of the previous appeals was that the location of the proposed building within the plot would create a cramped appearance that would be inconsistent with the prevailing character. This concern arose primarily because of the proximity of the building to the rear boundary. The inspector noted from the Council's sketch map showing the proposed location for this and all four previous applications that the building proposed in the scheme subject to this appeal would be closer to the boundary than in previous proposals. The proposed site layout shows the retention of hedges to the front boundary and a small hedge and gate to the western side of the property that would give access to the small side garden. While the previous schemes would have provided a small and cramped rear garden, the current proposal effectively forgoes a rear garden in favour of a small garden to the side of the property and a larger garden to the front. The inspector noted the Council's Supplementary Planning Document 2013 'Successful Places' recognises the occasional need for small gardens. The SPD is a material consideration to which the inspector attached significant weight. Paragraph 3.11.17 of the SPD suggests that small gardens should be orientated to receive the afternoon sun or where possible developments should provide an alternative sitting out area such as at the front of the property. The proposed garden area at the front would meet both of these criteria as it would face in an approximately southerly direction and would benefit from direct sunlight for much of the day.

9. The proposal presents an opportunity to improve an unmaintained area of land that currently detracts from the appearance of the street scene. Given the eclectic nature of housing in the locality, the inspector considered that the design of the proposed building would not have any detrimental effect on the character and appearance of the area. While the size of the plot is significantly smaller than its immediate neighbours, it is not exceptional in the locality and

therefore the inspector considered it would not appear cramped in comparison. However, the inspector also considered that the positive contribution that would result from development of the plot would be sufficient to outweigh any concerns about the compact nature of the site.

Living Conditions – Future Occupiers

10. The plans indicate windows to the bedrooms would be in the rear elevation, which will sit close to the boundary. The resulting outlook from these rooms would be of limited appeal. However, the principal daytime-use rooms, namely the living room and the kitchen, would have a southerly aspect that would look across the front garden and the street. The Inspectors that determined previous appeals found that the limited appeal of the bedroom outlook would be insufficient to warrant dismissal on its own. While this proposal differs in terms of the proximity to the boundary, nothing in the evidence before the inspector led him to a different conclusion. The inspector also considered that any detriment would be outweighed significantly by an improvement to the appearance of the development plot.

Living Conditions – Neighbouring Occupiers

11. The proposed dwelling is a single-storey building and would sit close to the boundaries with the garden to No. 146 and the side elevation of No. 2. The garden at No. 146 is relatively long and shares a short boundary with the appeal site. Appropriate boundary treatments could ensure that there is no overlooking. The inspector considered that the modest size of the proposed building would not be an overbearing feature when viewed from the garden of No 146 and would reflect a common feature in the area of houses built parallel to the rear gardens of other properties. The proposed building would be no closer to the side elevation of No. 2 than No.2 is to the side elevation of 4 Hazel Drive. The appeal site does sit slightly higher than the plot at No. 2, but not to the extent that it would result in the proposed dwelling overshadowing its neighbour. For the reasons above, the inspector considered that the modest impact that would result from the scheme would not be detrimental to the living conditions of the occupiers of the proposed dwelling or the occupiers of neighbouring properties. The inspector concluded that the proposed development would be in accordance with Policy CS18 of the Chesterfield

Borough Council Local Plan: Core Strategy 2013, as informed by the Successful Places Supplementary Planning Document 2013, which together seek to ensure that developments respect the character and appearance of the site and surrounding area and have an acceptable impact on the amenity of users and neighbours.

Conditions Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 05 Proposed Site Layout and 06 proposed Plan and Elevations.
- 3) Notwithstanding condition 2 no development shall take place until details of the external materials and boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

approved schemes shall be carried out before the development is resumed or continued.

6) Development shall not commence until drainage works for surface water dispersal shall have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.

7) The dwelling hereby permitted shall not be occupied until space for the parking of vehicles has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.

8) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with details that shall first have been submitted to and approved in writing by the local planning authority for the storage of refuse and recycling bins and that space shall thereafter be kept available for the storage of bins.

9) No works, including delivery of materials and operation of any plant or machinery, shall take place on the development site before 0800 hours on Mondays to Fridays and 0900 hours on Saturdays nor after 1800 hours on Mondays to Fridays and 1700 hours on Saturdays, or at any time on Sundays or on Bank or Public Holidays.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows shall be erected or installed and no fences, gates or walls, extensions, outbuildings or garages shall be erected within the curtilage of the dwellinghouse hereby permitted other than those expressly authorised by this permission.

FOR PUBLICATION Agenda Item 8

ENFORCEMENT REPORT

MEETING: PLANNING COMMITTEE
DATE: 20TH NOVEMBER 2017
REPORT BY: LOCAL GOVERNMENT AND REGULATORY LAW MANAGER
DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD: As listed in the report

FOR PUBLICATION

TITLE: D255 and Non-exempt papers (if any) on relevant files

BACKGROUND PAPERS

LOCATION: LEGAL SERVICES

1.0 PURPOSE OF REPORT

1.1 To update members, and get further authority, on formal enforcement.

2.0 BACKGROUND

2.1 The table summarises formal planning enforcement by the Council.

3.0 INFORMAL ACTION

3.1 Formal enforcement is a last resort, with most planning problems resolved without formal action (in accordance with government guidance). More information on informal enforcement is available from the Planning Service.

4.0 MORE INFORMATION ABOUT THE TABLE

4.1 A summary of the main types of planning enforcement action available to the Council and penalties for non compliance is available from Legal Services.

5.0 RECOMMENDATION

5.1 That the report be noted.

GERARD ROGERS
LOCAL GOVERNMENT AND
REGULATORY LAW MANAGER

PAUL STANIFORTH
DEVELOPMENT MANAGEMENT
& CONSERVATION MANAGER

Further information on this report from Gerard Rogers, Legal Services
Tel 01246 345310 or email gerard.rogers@chesterfield.gov.uk

ENFORCEMENT REPORT

Enforcements currently Authorised: 9

10 November 2017

Address	Authorised <small>days from</small>	Breach	CHE/	Issued <small>days to issue</small>	Effective <small>days to (-) /from</small>	Comply <small>days to (-) /from</small>	Notes	update <small>last update</small>	Ward
Enforcement Notice		<i>Total currently Authorised: 7</i>			<i>Authorised to Issue Average: 32 days</i>				
Hady Lane	15/10/12 <small>1,852</small>	occupation of land					Resubmitted application for relocation site granted 06/10/14, and details on conditions submitted. Outcome of Village Green Inquiry - DCC rejected the applications on 25/07/16. Currently moving to authorised site.	<input type="checkbox"/> <small>11/11/16</small>	Ha
Lincoln Street	13/03/17 <small>242</small>	use of materials to extend hardsurfacing		17/05/17 <small>65</small>	20/10/17 <small>21</small>	20/01/18 <small>-71</small>	Use of materials to extend hardsurfacing. Appeal dismissed with costs award	<input checked="" type="checkbox"/> <small>31/10/17</small>	
Pottery Lane West	10 09/01/17 <small>305</small>	excavation - engineering works		25/01/17 <small>16</small>			Appeal.	<input type="checkbox"/> <small>02/05/17</small>	

Page 182

Address		Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Tapton View Road	47	24/04/17 200	unauthorised extension	16/00648				Application for retention dismissed on appeal. Application for changes to extension expected.	<input type="checkbox"/> 20/09/17	SH
Walton Works Page 183		27/06/16 501	use for war and horror style games					Cease war and horror style games at weekends and after 18:00 hours, and pyrotechnics at any time. 12/12/16 Committee approval for Section 106 planning obligation to regulate unauthorised use. Amended draft with agents.	<input type="checkbox"/> 20/11/17	Wa
York Street	2	17/07/17 116	2 vending machines		01/08/17 15			2 unauthorised vending machines. Issued. Appeal.	<input type="checkbox"/> 07/09/17	Ha
York Street	2	09/10/17 32	conversion and extension of roof space						<input type="checkbox"/>	Ha

Stop Notice

Total currently Authorised: 1 Authorised to Issue Average: days

Details at 10 November 2017

Address	Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Walton Works	27/06/16 501	use for war and horror style games of game play					See notes for Enforcement Notice.	<input type="checkbox"/> 03/03/17	Wa

TPO Prosecution

Total currently Authorised: 1 Authorised to Issue Average: days

Newbold Road	04/07/17 129	damage / removal of trees					Offences by multiple parties. 02/11/17 Guilty pleas. Fine £1600, £100 costs, £120 victim surcharge. Other two cases adjourned for sentencing and one not guilty plea for trial on 21/12/17.	<input checked="" type="checkbox"/> 02/11/17	N
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Action authorised by Committee except Breach of Condition, Planning Contravention, Section 215 Notices, Advertisement Discontinuance, prosecutions and urgent action which are authorised by officers

Key to Ward abbreviations: BNW Barrow Hill and New Whittington • BN Brimington North • BS Brimington South • B Brockwell • D Dunston • Ha Hasland • Hb Holmebrook • HI Hollingwood and Inkersall • L Linacre • LG Loundsley Green • LW Lowgates and Woodthorpe • MP Middlecroft and Poolsbrook • Mo Moor • N Newbold • OW Old Whittington • R Rother • SH St Helens • SL St Leonards • Wa Walton • We West

Address		Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
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Walton Works Page 185		27/06/16 501	use for war and horror style games					Cease war and horror style games at weekends and after 18:00 hours, and pyrotechnics at any time. 12/12/16 Committee approval for Section 106 planning obligation to regulate unauthorised use. Comments on draft from agents.	<input type="checkbox"/> 05/06/17	Wa
York Street	2	17/07/17 116	2 vending machines		01/08/17 15			2 unauthorised vending machines. Issued. Appeal.	<input type="checkbox"/> 07/09/17	Ha
York Street	2	09/10/17 32	conversion and extension of roof space						<input type="checkbox"/>	Ha

Stop Notice

Total currently Authorised: 1 Authorised to Issue Average: days

Details at 10 November 2017

Address	Authorised <i>days from</i>	Breach	CHE/	Issued <i>days to issue</i>	Effective <i>days to (-) /from</i>	Comply <i>days to (-) /from</i>	Notes	update <i>last update</i>	Ward
Walton Works	27/06/16 501	use for war and horror style games of game play					See notes for Enforcement Notice.	<input type="checkbox"/> 03/03/17	Wa

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Action authorised by Committee except Breach of Condition, Planning Contravention, Section 215 Notices, Advertisement Discontinuance, prosecutions and urgent action which are authorised by officers

Key to Ward abbreviations: BNW Barrow Hill and New Whittington • BN Brimington North • BS Brimington South • B Brockwell • D Dunston • Ha Hasland • Hb Holmebrook • HI Hollingwood and Inkersall • L Linacre • LG Loundsley Green • LW Lowgates and Woodthorpe • MP Middlecroft and Poolsbrook • Mo Moor • N Newbold • OW Old Whittington • R Rother • SH St Helens • SL St Leonards • Wa Walton • We West

FOR PUBLICATION

Diversion of Public Rights of Way (footpaths) at Loundsley Green estate, Chesterfield.

MEETING:	PLANNING COMMITTEE
DATE:	20 th November 2017
REPORT BY:	DEVELOPMENT MANAGEMENT & CONSERVATION MANAGER
WARD:	Loundsley Green and Linacre

1.0 REASON FOR THE REPORT

- 1.1 To consider routes of definitive footpaths in and around the Loundsley Green area which were affected by development of the estate and to consider the need for formal Diversion Orders.

2.0 PLANNING BACKGROUND

- 2.1 In the 1950s the area of Chesterfield, now known as Holme Hall and Loundsley Green, was primarily farmland. It was crossed by numerous definitive footpath rights of way which linked into the footpath and bridleway network in the local area. The planning records show that the affected routes were the subject of a temporary stopping Up Order in the late 1950s in connection with a scheme to open cast the land at the Folly House site prior to a residential redevelopment however on completion of the opencast operation the routes were reinstated along their original lines.
- 2.2 What followed was a major housing scheme by the Chesterfield Corporation as a new housing estate was required to provide for rehoused families relocating to the area as part of the new relocation of the Postmaster Generals department to the town (AGD). The outline planning permission for housing development and roads infrastructure was granted under code CHE/860/19 on 4th

November 1060 and various detailed schemes for the housing estate followed through the early 1960s.

- 2.3 The Holme Hall estate came along at a later date and was developed largely through the 1970s and 80s
- 2.4 The detail which is available on the planning record is not complete but it clearly shows that footpath routes crossing the land were affected by the new development. There appears however to be no reference to such in any letter or report and there is no correspondence which suggests that a formal diversion or closure of such routes was pursued or even considered.

3.0 THE ISSUE

- 3.1 No 3 Southdown Avenue has recently been sold on the open market and a Ms Gittins has acquired the property. As part of the search process it has been revealed that definitive footpath 63 passes through the house on its original alignment. Whilst the sale proceeded and Ms Gittins now owns the property, she has sought a solution to the issues arising, via Councillor Wall, such that the matter is not raised in the future when the property is again placed on the market. Concerns are expressed regarding financial implications, property values and time delays associated with the uncertainties which may arise.
- 3.2 It seems very odd that this is the first time that this issue has been raised considering how long the development has been in place and the paths obstructed. Correspondence with the County Council confirms that the matter should have been dealt with at the planning stage so it may be appropriate for CBC to deal with the whole of the affected footpath sections. They say a resolution can be pursued by either DCC or CBC however if DCC were to pursue this there is a charge which would be typically £2000.00.
- 3.3 An assessment of the routes of the definitive footpaths and the housing which has been built in Loundsley Green and Holme Hall suggests that a considerable number of properties are affected and clearly the matter, which should

have been dealt with at the time in the 1960s now needs formally resolving.

- 3.4 The following is a list of 104 properties directly affected by the routes of definitive footpaths which pass through dwellings and gardens. Technically these dwellings represent illegal obstructions however on a pragmatic basis there has been no necessity to enforce the law. It is also worth noting that whilst the majority are residential properties which were dealt with through the planning process by the Borough Council at the time, there is also a school which obstructs footpath 63 and which was a County Matter for planning purposes and which was dealt with by DCC.

Loundsley Green FP63:

32, 34, 36 Quantock Way
16, 18, 20, 22, 24, 11, 13, 15, 17 Blackdown Avenue
34, 36, 38, 45 Cleveland Way
1, 3, 5, 7 Southdown Avenue
21, 23, 32, 34, 36, 38 Pennine Way
2, 1, 3 Gower Crescent

Holme Hall FP63:

Holme Hall Primary school
14, 15, 16, 17, 18, 19, 22, 23, 24, 25 Foston Drive

Loundsley Green FP66:

1 Sedgemoor Close
16, 19, 21, 23, 25, 27, 29, 31 Grampian Crescent
1, 2, 3, 4 Glencoe Way
125 Cuttholme Road

Holme Hall FP66:

6, 8, 11 Carsington Close
2 Taddington Road
7, 9, 43, 56, 58 Holme Hall Crescent
3 Tissington Close
1, 3, 5, 7, 9, 11, 13, 15, 17, 19 Sudbury Close

Holme Hall FP60:

4 Kidsley Close
165, 167 Linacre Road
4 Brushfield Road

2, 4, 6, 11 Repton Close

Loundsley Green FP60:

10 – 18 Mercaston Close (9x flats)

Holme Hall FP165:

32, 34, 36, 38, 40 Horsley Close

24, 26 Weston Close

6 Repton Close

Holme Hall FP166:

17 Brushfield Road

2, 4, 6 Repton Close

Holme Hall FP167:

12, Brushfield Road

27, 29, 31, 33 Elkstone Road

4.0 PROCEDURE

- 4.1 In normal circumstances s257 of the Planning Act is used to divert a footpath which is affected by development proposals however the legislation clearly states that there is no power under s257 to make or confirm a diversion order when the development concerned has already been carried out. This legislation cannot therefore be used so the procedure available will involve s118 and s119 of the Highways Act where either a Public Path Extinguishment Order or a Public Path Diversion Order can be made.
- 4.2 Under the legislation an application form would need to be completed and be accompanied by a 1/2500 scale plan showing the definitive and proposed diversion routes and any routes to be extinguished. It is also necessary to obtain the full written agreement from all affected landowners and to supply title of ownership of the land crossed by the existing and any proposed routes. A Public Path Diversion Order cannot alter a point of termination of the path if that point is not on a highway, or a highway connected with it, and which is substantially less convenient to the public.

- 4.3 The process also involves publicising an Order in a local newspaper and on site allowing 28 days for representations or objections to be made. If no objections or representations are received or any received have been withdrawn, the Order can be confirmed followed by posting a notice of confirmation on site and in a local newspaper. Following a minimum period of 42 days allowed for procedural challenge to the High Court from date of confirmation the definitive map is amended to show changes and the County Council and ordnance survey are informed.
- 4.4 If objections to an order are received, they have to be considered including the prospect of amendment of the proposals. If objections are not withdrawn then the order must be referred to the Secretary of State for determination after which the Borough Council loses all jurisdiction and timing over the process. The Secretary of State would appoint an independent inspector to consider a written representation procedure, a hearing or a full Public Inquiry.
- 4.5 It is necessary also to consider the provisions with regard to the payment of any compensation which may be necessary.

5.0 CONSIDERATIONS

- 5.1 The legal test in relation to a Public Path Diversion Order under s119 Highways Act 1980 requires that the Council is satisfied that the diversion is in the interests of the owner, lessee or occupier of land crossed by the path, or in the interests of the public and that it is expedient that the line of the path, or part of that line, should be diverted.
- 5.2 For an Extinguishment Order under s118 the legal test is whether the Authority is satisfied that the path is not needed for public use.
- 5.3 Where routes are diverted the new route should be substantially as convenient as the original route. New routes should not unreasonably lengthen the path other than where it is in the interests of an overall improvement to the local network. Any new route should avoid introducing unnecessary “dog legs” into the path, or introduce substantially increased walking distance. It should retain or

improve a connection with other public rights of way to reduce the distance travelled along metalled carriageways. Where paths are being diverted for development purposes, the new routes should not follow estate roads/existing roads as this would effectively amount to an extinguishment of the path.

- 5.4 In this case there is clearly a need and an opportunity to undertake minor diversions and extinguishments as shown on the plans attached to this report and as described below.

FP63

The eastern part of FP 63 from where it crosses Loundsley Green Road to Pennine Way should be extinguished. The plan at appendix C shows that the logical diversion of the route and the most direct route is onto existing public highway and it is the case therefore that this part of FP63 becomes irrelevant (point I to J).

From Pennine Way progressing to the east however the route crosses the recreation ground and enters via an existing metalled path running from the junction of Gower Crescent with Pennine Way to the south of 1 Gower Crescent. This is the well established footpath route into the recreation ground and is no less convenient or commodious than the definitive route slightly further to the north. The opportunity can be taken to undertake the minor diversion of a small section of FP63 for the reasons explained above (point J to K).

To the west from Loundsley Green Road the definitive route of FP 63 crosses open space and then directly through the middle of Holme Hall Primary school. The issue of the route should have been considered and dealt with by Derbyshire County Council at the time they granted planning permission for the development of the new school. The plan at appendix B shows that the route requires diversion to the paths which are used to the east of the primary school and which pass the school entrance. This route is a well established footpath route around the school and is no less convenient or commodious than the definitive route (point C to D). The opportunity can be taken to undertake the minor diversion of a small section of FP63 for the reasons explained above.

FP66

The southern part of this route from where it crosses Loundsley Green Road should be extinguished. The plan at appendix A shows that the logical diversion of the route and the most direct route is to the west onto Grampian Crescent and Glencoe Way and beyond to the Ashgate Road roundabout. It is the case therefore that FP66 becomes irrelevant because this part of the route would be on the existing highway (point A to B).

The northern part of the route between Loundsley Green Road and Linacre Road requires a number of short diversions to footpath connections built into the estate as shown on appendix B. The diversion route maintains connections to all routes which run to or from the site, therefore maintaining continuity and the route achieves as safe and direct route as possible. In proportionate terms the new route is no less convenient, desirable or commodious than the existing (points E to F and G to H).

The opportunity can be taken to undertake the minor diversion of a small section of FP66 for the reasons explained above.

FP60, FP165, FP166 and FP167

FP60 runs from Wardgate Way in a north direction to its junction with FP165/FP166 to the north. FP165, FP166 and FP167 run from a none definitive footpath linking between the cul de sac heads of Weston Close and Horsley Close to the south and west through to Elkstone Road. All these routes are no longer of relevance since the diversions would be onto existing highways as shown on the plan at appendix D. The public highway route, in proportionate terms, is no less convenient, desirable or commodious than the existing routes and it is appropriate therefore to extinguish these routes (points L to O; O to P; O to Q and Q to R).

- 5.5 The disadvantages or loss likely to arise as a result of a diversion of routes or extinguishment to members of the public generally or to persons whose properties adjoin or are near the existing route should be weighed against the advantages of the proposed Order. In this case the definitive routes have not been available to walk for over 50 years and surprisingly no one has contested this. It appears there would be significant advantages to the property owners

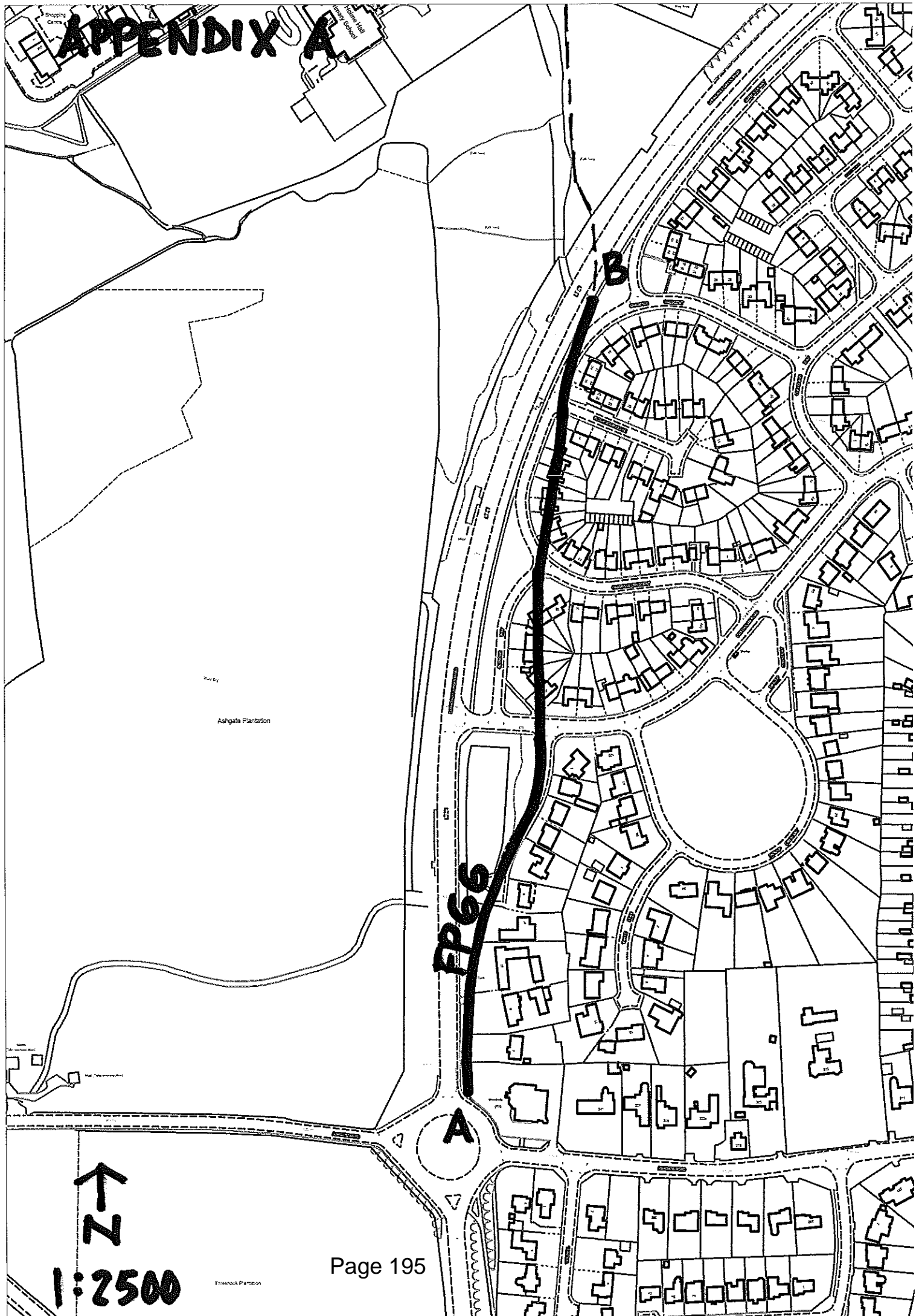
affected by the existing definitive routes with no disadvantage to any other party as anyone will continue to be able to walk along existing routes as they have done over the last 5 decades

- 5.6 Whilst there appears to be an opportunity and good reason to pursue a resolution of this matter, the committee will need to be aware that it brings with it considerable resource issues in the officer time needed to satisfactorily pursue the matter to conclusion including the cost of establishing title ownership of 104 individual properties. It is the case that Derbyshire County Council charge a minimum of £2000 to process a simple Public Path Diversion Order. It is considered that further conversations should take place with DCC to exploring sharing the responsibility to resolve this matter especially since DCC did also not deal with the diversion of the path affected by Holme Hall Primary School

6.0 **RECOMENDATION**

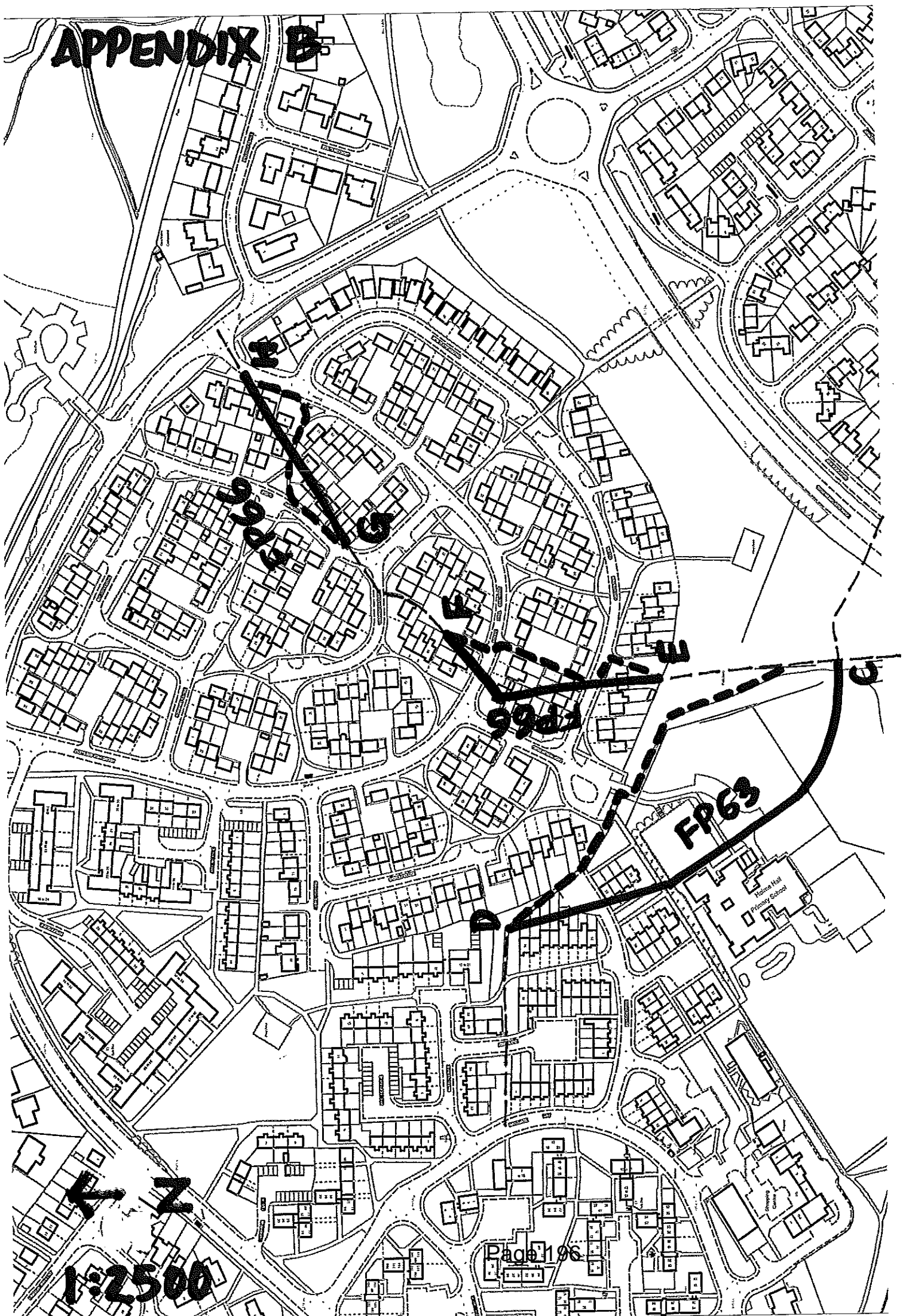
- 6.1 That the opportunity for a joint CBC and DCC approach should be pursued to resolve the Diversion and Extinguishment issues referred to in the report involving:
1. under s119 of the Highways Act 1980 FP 63, 66 be diverted as shown on the plans appended to the report and as described in this report, subject to the precise route being delegated to officers, and the required full publicity and consultation exercise and that any unresolved objections received to the proposed Order be considered by Planning Sub Committee and referred to the Secretary of State for a decision.
 2. under s118 of the Highways Act 1980 FP 60, 63, 66, 165, 166 and 167 be extinguished as shown on the plans appended to the report and as described in this report, subject to the precise route being delegated to officers, and the required full publicity and consultation exercise and that any unresolved objections received to the proposed Order be considered by Planning Sub Committee and referred to the Secretary of State for a decision.

APPENDIX A



1:2500

APPENDIX B



FP63
FP63
FP63

FP63
FP63

FP63

Home Hall
Primary School

K Z
1:2500

APPENDIX C



K

S

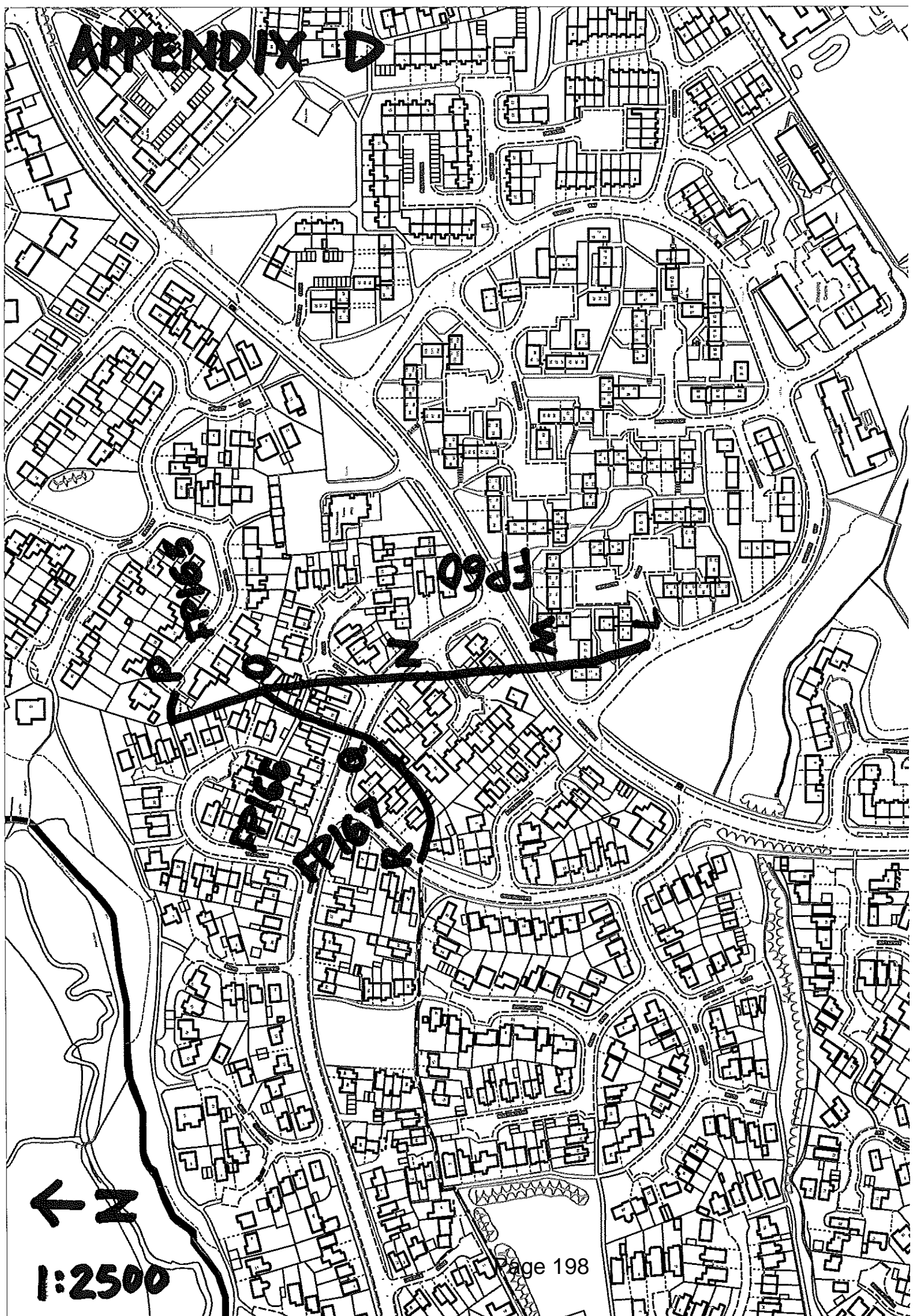
W

K2

K2500

LOUNDSLE

APPENDIX D



1:2500