

North East Derbyshire District Council

Planning Committee

27 November 2018

Development Management Applications

Report No PM/17/18-19/AK of the Planning Manager – Development Management

This report is public

Schedule of Planning and Other Applications under the Town and Country Planning (General Development Procedure) Order 2015, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012

FOR THE INFORMATION OF MEMBERS

Legal and Financial Implications

Members are advised that there may be legal and financial implications arising from determination of planning and other applications and the authorisation of enforcement action.

There is a right of appeal against a refusal of planning permission or the imposition of conditions on a planning approval, which may attract an award of costs against the Council. Preparation of the District Council's case in such appeals may necessitate expenditure on legal advice or Counsel.

Breaches of planning control, such as unauthorised development or the unauthorised use of buildings and land, or failure to comply with conditions may be redressed by the District Council's powers to take enforcement action. Such action may lead to possible further action in the Magistrates' or Crown Courts which may involve expenditure on legal advice and costs.

There is a right of appeal against the service of an enforcement notice. If any appeal is upheld it may attract costs against the Council.

Human Rights Act 1998

The reports consider decisions by the Council which may affect property rights of the owner (Article 8 and Article 1 may be relevant). Under the Human Rights Act 1998 the Council 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

All action taken in considering applications, consents, and enforcement is the lawful duty of this Authority as Local Planning Authority. Decisions are objective and proportional being based on consideration of the National Planning Policy Framework and the policies contained in the North East Derbyshire Local Plan and all other material considerations.

There is a right of appeal against all decisions made by the Council.

Environmental Considerations

There are environmental implications arising from the determination of planning applications and the authorisation of enforcement action. The consideration of the development of any site seeks to take into account the need to safeguard the environment, and the relevant issues are dealt with in each case in the Planning Assessment and Summary.

Community Safety Implications

Members are advised that there are Community Safety Implications arising from the determination of planning applications.

Crime prevention is capable of being a material consideration in the determination of planning applications as set out in the National Planning Policy Framework. Where relevant these matters are addressed in each case in the Planning Assessment and Summary.

The safety of development sites is the responsibility of the site's operative and enforced by specialist agencies.

Issues with regard to highway safety are relevant to the determination of planning applications. These issues where relevant are addressed in each case in the Planning Assessment and Summary with the relevant advice of the Highway Authority incorporated in the report.

Background Papers

The background papers relating to each application are the application forms, plans, representations received and replies to consultations, contained in the application file, the reference of which is given at the head of each report.

With reference to applications made for works to Protected Trees

Financial Implications

The prescribed format when a Tree Preservation Order is made includes a section which makes provision for the payment by the Local Planning Authority, subject to such exceptions and conditions as may be specified in the Order, of compensation in respect of loss or damage caused or incurred in consequence of:-

- (a) the refusal of any consent required under the Order; or
- (b) the grant of any such consent subject to conditions.

Liability for compensation may be avoided by the Local Planning Authority in relation to trees which are subject to a Tree Preservation Order made prior to 2nd August 1999, and incorporating the appropriate wording, where in refusing consent or imposing conditions on

an approval the Local Planning Authority are satisfied that their decision is in the interest of good forestry or that the tree(s) has/have an “outstanding” or “special” amenity value, unless the Council’s assessment of the amenity value of the Tree(s) is successfully challenged.

Legal Aspects

Once an Order is made, applications for consent are required in respect of any proposed cutting down, topping, lopping or uprooting of any trees. There is a right of appeal to the Secretary of State against the decision of the Council to either refuse consent or grant permission for works subject to condition.

Environmental Considerations

The making of a Tree Preservation Order, and the subsequent control of works to trees covered by Orders are likely to benefit the local environment through the contribution of the protected tree(s) to visual amenity and the retention of their ecological value. The assessment of all applications for consent for works balances this with the need for the works proposed.

Trees (Community Safety Implications)

The health of a protected tree and its safety remain the responsibility of the tree’s owner, even where the tree is covered by a Tree Preservation Order. If a tree is dead, dying or dangerous, works to rectify the danger may be undertaken without the consent of the District Council.

The safety and health of a tree covered by a Tree Preservation Order is a material consideration in the determination of any application to undertake work to a protected tree. However, this has to be balanced against all other material factors when considering any particular submission.

DEVELOPMENT MANAGEMENT APPLICATIONS INDEX

PARISH	APPLICATION NUMBER	TITLE	PAGE NUMBER
CLAY CROSS	NED/18/00762/FL	Application to remove existing flat roof and create new first floor for proposed dwelling with new flat roof and reduction in size of A2 unit to allow creation of new access to the proposed dwelling (Conservation Area) (Amended Plans) at 48 High Street, Clay Cross for Mr Rudolph Willett.	5 - 16
CLAY CROSS	NED/18/00831/FL	Proposed erection of 2 new dwellings (Amended Plans) on land opposite 21-29 on the south side of Egstow Street, Clay Cross for Mr Paul Marshall (PSM Homes Ltd)	17 - 25
UNSTONE	NED/18/01006/FL	Change of use from Public House to residential dwelling with alterations to openings and new glass balustrade to front (revised scheme of 18/00690/FL)(Amended Plans) at the Barrack Hotel, Barrack Road, Apperknowle for Chris Sinclair.	26 - 33
ECKINGTON	NED/18/00621/FL	Application for a hand car wash at 27-39 West Street, Eckington for Mr David Knight.	34 - 40

APPLICATION NO. 18/00762/FL

APPLICATION Application to remove existing flat roof and create new first floor for proposed dwelling with new flat roof and reduction in size of A2 unit to allow creation of new access to the proposed dwelling (Conservation Area) (Amended Plans)

LOCATION 48 High Street, Clay Cross

APPLICANT Mr Rudolph Willett

CASE OFFICER Graeme Cooper

DATE RECEIVED 25 July 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Cllr Reader

REASON: Councillor shared view of Parish Council that the proposed development would reduce the size of retail unit at ground floor and result in the loss of a disabled access point into the building.

The Site Inspection Group are to visit this site to assess the impact of the development on neighbour's amenity and the impact of the proposal on the area.

1.0 SITE DESCRIPTION

- 1.1 The application site forms part of an attractive red brick and stone built building which used to be the former Natwest building. Planning permission was approved in August 2017, under planning reference 17/00601/FL for the entire buildings conversion and extension to form 3 residential flats and a small A2 unit.
- 1.2 The building is located at the corner of High Street and Market Street, with the building fronting directly onto the public footpath. Parking for the residential unit is taken from Market Street to the east along a narrow access point, which leads to a small hardstanding area to the south east. The small parking area is located adjacent to a larger public car park.
- 1.3 Market Street contains a mix of styles, scale and materials of construction with it forming one of the main shopping streets in Clay Cross. To the east is a traditional red brick building, with a mock tudor building on the opposite corner of Market Street and High Street. This building has permission to be converted into 4 apartments under planning reference 17/00132/FL.
- 1.4 High Street comprises a mixed street scene, with a former public house located immediately to the south of the application site. This building received planning permission to be converted into residential accommodation (13/00642/FL), however this permission has now expired.
- 1.5 Further to the south is an area of open space with a public car park (Market Street No1 Car Park) located to the east. Parking in this area is restricted to 2 hours, with no charges and these restrictions only applying during the hours of 0800 and 1800 Monday to Saturday. Another car park (Market Street 2) is located further along Market Street and is a long stay car park with no restrictions. Access to both of these car parks is taken from Market Street.

- 1.6 The application site is centrally located in the Clay Cross Conservation Area and Settlement Development Limit. It is also within the retail centre as defined in the Local Plan. The building in question is mentioned in the Clay Cross Character Statement as a 'pivotal focal point', which makes a positive contribution to the special architectural or historic character' of the area.
- 1.7 It is noted that work has already started on the conversion works, with the rear roof section removed, staircase added from ground to first floor and first floor added, with rooms formed with stud partitions.

2.0 PROPOSAL

- 2.1 The proposal seeks permission to create a first floor residential apartment with access taken from a doorway at ground floor level to the west leading from High Street. One parking space would be provided to the south east.
- 2.2 The apartment would be provided with two bedrooms, living/dining space, bathroom and en-suite. The original scheme included a number of Velux roof lights and sun tubes.
- 2.3 At ground floor level the creation of a staircase for the first floor accommodation would result in a small reduction in the floor area of the A2 unit and the loss of a secondary point of access. The main A2 access point to the north would be retained.

3.0 AMENDMENTS

- 3.1 Following a site meeting with the applicant a number of changes were proposed to the internal layout of the scheme and changes to the location of Velux roof lights. The internal layout changes included altering the location of the kitchen. Five roof lights on the inside roof slope were altered to the outward facing roof slope, to increase natural light in the habitable rooms.

4.0 PLANNING HISTORY

- 4.1 83/00118/FL - Change of use from sales shop to bank (Conditionally Approved)
- 4.2 84/00103/FL - Alterations to windows, roof and modifications to appearance of building (Conditionally Approved)
- 4.3 85/00109/FL - Alterations to bank frontage (Conditionally Approved)
- 4.4 93/00107/AD - Illuminated sign (Conditionally Approved)
- 4.5 02/00956/AD - Advertisement consent for internally illuminated sign scheme (Approved)
- 4.6 04/00455/FL - Internal and external alterations including a secondary entrance and external lighting to improve public access (Refused)
- 4.7 05/01377/FL - Internal and external alterations including a secondary entrance and external lighting to improve public access (Revised Scheme of NED/04/00455/FL) (Conditionally Approved)
- 4.8 07/00098/FL - Installation of a perforated security shutter over the new secondary entrance (Conditionally Approved)
- 4.9 15/00456/AD - Application for Advertisement Consent for installation of shop front signage with illumination (Conservation Area) (Conditionally Approved)
- 4.10 16/00547/FL - Application for replacement ATM (Conservation Area) (Conditionally Approved)

- 4.11 17/00601/FL - Conversion of existing NatWest Bank building into 3 No. residential apartments including removal of existing pitch roof and cosmetic amendments to existing window arrangements on the rear elevation and the retention of area at ground floor for A2 use (Conservation Area) (Amended Title/Amended Plans) (Conditionally Approved)

5.0 DEVELOPMENT PLAN POLICIES

- 5.1 The most relevant policies of the Local Plan are:-

GS1 Sustainable Development
GS5 Settlement Development Limit
GS7 Change of Use and Conversion
H12 Design and Layout of New Housing
SH3 Ground Floor Development within Town Centres
SH4 Upper Floor Development within Town Centres
NE6 Development Affecting Nationally Rare Species
NE9 Development and Flood Risk
BE1 General Design Principles
BE11 Development Within and Adjoining Conservation Areas
T2 Highway Access and the Impact of New Development
T9 Parking Provision
CSU4 Surface and Foul Water Drainage
CSU6 Contamination Land

- 5.2 The Clay Cross Character Statement was adopted by the Council in August 2010 and considers the architectural and historic qualities of the buildings contained within the Clay Cross Conservation Area.

- 5.3 The Council is now at an advanced stage in the production of a new **Local Plan (Publication Draft)** (LPPD) which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018 and is due to be heard at examination in November 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.

- 5.4 The most relevant policies contained in the Local Plan (Publication Draft) include:

SS1 Sustainable Development
SP2 Clay Cross
SDC4 Biodiversity and Geodiversity
SDC5 Development within Conservation Area
SDC9 Non-designated Local Heritage Assets
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place making
SDC13 Environmental Quality

- 5.5 The Clay Cross 2025 Regeneration Action Plan was updated in 2013 and sets out a vision for how the town should develop with a strong and prosperous community. It is mentioned in the LPPD as a supporting document to enhance the role and function of Clay Cross as the second largest town in the District.

- 5.6 The following Council Policies and documents are also relevant:

- Sustainable Buildings SPD
- Successful Places Interim Planning Guidance (Adopted December 2013)

- 5.7 The overarching aims of the National Planning Policy Framework (NPPF) are a significant material consideration and include a strong presumption in favour of sustainable development.

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The application was validated on 14 August 2018 and due to expire on 8 October, however an extension of time was agreed until 30 November to allow the application to be heard by members of planning committee. Site visits were undertaken by the case officer on 31 August (general visit) and 23 October (internal visit), with a site notice placed on a road sign adjacent to the application site on the corner of Market Street and High Street. The site notice expired on 21 September.
- 6.2 The **Parish Council** raised an objection to the proposed development. The Parish note that it is apparent that the size of the existing A2 unit would be reduced in size and that the existing extra door to the unit would be removed. This would render the A2 non-compliant with the Disability Discrimination Act in that there has been no attempt to compensate for the removal of the disabled access. The Disability Discrimination Act suggests that reasonable attempts should be made to satisfy the Act. In this case, it is evident that not only has there been no attempts to satisfy the Act but that the Act has been totally dismissed as irrelevant.
- 6.3 **Local Ward Members** were notified of the Parish Council objection. One member supported the officer recommendation to conditionally approve the scheme, but another local member supported the comments of the Parish Council and requested that the application be heard by members of Planning Committee.
- 6.4 The **County Highways Authority** raised no objection to the proposal to incorporate an additional dwelling within the building. The Highways Authority note that whilst the levels of off street car parking are deficient, given the sites location and the availability of parking within close proximity of the site, this is not a concern from a highway safety viewpoint.
- 6.5 The **Council's Environmental Health Officer (EHO)** was consulted on the proposed development and notes that it would be located on a busy road network in an urban environment and the EHO considers that there is a need to consider the potential sound impacts on the proposed residential development. Therefore to protect the aural amenity of any future occupants it is recommended that a suitably worded condition is included on any decision.
- 6.6 The **Environmental Health Officer (EHO) (Housing and Pollution)** was asked to consider the levels of natural light in the proposed apartment and the loss of a disabled access point. The EHO raised no concerns about the level of natural light into the first floor accommodation from Velux, sun tubes and low level windows. The EHO considers that the provision of sky lighting in the kitchen, living room and bedrooms coupled with adequate artificial light should provide satisfactory conditions as to avoid light becoming an issue. With regards to the disabled access to the A2 unit, the EHO does not consider it essential that a business should have a disabled access, especially when using an existing building. The EHO considers that the effect would be negative on the business as it may deter disabled people from using that business, but it is not something that the EHO would require.
- 6.7 The **Derbyshire Wildlife Trust (DWT)** was consulted on the proposed development and notes that no ecological information was submitted with the application. In the absence of ecological survey information it is not possible to determine if the building is suitable to support roosting bats and/or nesting birds, and if the proposed development will have an impact on roosting bats and nesting birds. The DWT

consider that due to the lack of survey information on bats and nesting birds 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. In light of these comments, the Case Officer visited the application site to meet the applicant. It was noted that work had already commenced on site to remove the flat roof element and start work on converting the upper level into an apartment. Most of the original roofing has been removed from site, with the exception of the north and west roof slopes. These elements would remain untouched. After discussions with the DWT it was considered that a bat survey would not be necessary in this instance, however the DWT supported the inclusion of a condition for the provision of bird and bat nesting. If further roof covering has to be removed from site then an ecologist should be present on site whilst the roof is being stripped to ensure that no bats are potentially harmed. Bat boxes should be installed in advance of any further works to the roof.

7.0 PLANNING CONSIDERATIONS

- 7.1 The planning considerations for this application are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding Conservation Area, the privacy and amenity of neighbouring uses and highway safety issues.

8.0 PLANNING ASSESSMENT AND SUMMARY

- 8.1 The application seeks consent to create a first floor residential apartment, with access taken from an existing doorway on High Street to the west, reducing the level of A2 space at ground floor level. One parking space would be provided with the residential unit.

Principle of Development

- 8.2 The application site is located within the Settlement Development Limit, Conservation Area and town centre of Clay Cross. Local Plan Policies state that development in these areas will be supported where it preserves or enhances the character of the Conservation Area, provided that development is of a scale, form, siting, design and choice of materials and detailing that respects the prevailing built features of the Conservation Area. Development should not have a detrimental impact upon the privacy and amenity of neighbouring land uses.
- 8.3 Within a town centre, proposals for the change of use of ground and upper floors of retail/commercial premises to residential uses will be permitted provided the proposed use does not have an adverse effect upon the vitality and viability of the town centre and the proposal does not have an adverse effect upon the general amenity and character of the area.
- 8.4 The principle of residential development on this site has also already been accepted with the approval of an application to convert and extend the existing building under planning application 17/00601/FL.
- 8.5 Furthermore, the NPPF supports sustainable development. In assessing sustainability the NPPF provides a three stranded definition. This covers economic, social and environmental factors. Clay Cross is one of the major settlements in the District of North East Derbyshire. It has excellent public transport connectivity to the wider villages and towns, including Chesterfield, Alfreton and Derby. Clay Cross is home to a number of major employers and a wide range of services. The proposal would result in the reuse of empty commercial premises and would ensure it does not

remain empty for a long period. In view of this, it is considered that the site is considered a sustainable location.

- 8.6 In view of the above, officers consider that the principle of the development is acceptable.

Impact upon the Character of the Conservation Area

- 8.7 The proposed development involves a number of changes and alterations to the building, including the removal of a flat roof element and a feature roof light to create the new first floor accommodation. A number of Velux roof lights are proposed in the outward facing pitched roof slope, behind a parapet wall. The majority of the changes to the building would only be visible from the public car park to the south east and these views would be screened by the former public house to the south of the application site.
- 8.8 Local Plan Policy BE11 states that proposals should preserve or enhance the character of the Conservation Area. The Clay Cross Conservation Area was designated in 2010 and the building is mentioned as 'an unlisted building that makes a positive contribution to the special architectural or historic character' of the area, with the building being described as a 'pivotal focal point' drawing pedestrians down Market Street into Clay Cross.
- 8.9 The statutory requirement of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it a statutory duty for Local Planning Authorities to have special regard to the desirability of preserving listed buildings or their settings and section 72 of the Act states that the LPA must pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
- 8.10 The main external alterations that should be considered in this instance, are the removal of a flat roof and the inclusion of a new roof structure along with the inclusion of Velux windows. When viewing the proposed development from High Street and Market Street the proposed Velux roof lights would be screened behind a high parapet wall. The alterations to the rear of the building would be screened by the public house to the south, as such the external changes to the building would not be easily visible from public viewpoints. The inclusion of a first floor has meant that upper floor windows would now be low level windows in the proposed first floor apartment. The design of the apartment is sympathetic, in that the inclusion of a first floor would not split the windows when viewed from public spaces on High Street and Market Street, retaining the historic character of these openings. The majority of the changes would be internal. It is therefore considered that the proposed development would preserve the character and appearance of the building within the wider Conservation Area. Furthermore, the positive redevelopment of the site to include a residential unit in the first floor area would have a positive impact upon the character of the town centre.

Vitality of Town Centre

- 8.11 The existing building contains an A2 unit, with high ceiling comprising high level windows. The proposed development would create a first floor apartment and involve removing a section of flat roof to increase the usable first floor space. A small section of the A2 unit would be lost to create a staircase to the first floor apartment.
- 8.12 Local Plan Policies are clear that within a town centre location, proposals for the change of use of ground and upper floors of retail/commercial premises to residential uses will be permitted provided the proposed use does not have an adverse effect

upon the vitality and viability of the area as principally a retail location and the proposal does not have an adverse effect upon the general amenity and character of the area.

- 8.13 The building to the east is connected to the proposed development and was subject to a 2017 planning permission (reference 17/00601/FL) for the conversion and extension of the building to create residential accommodation. The scheme also included the retention of the A2 unit which forms part of this application. A building to the south also received planning permission (reference 13/00642/FL) to be converted into residential accommodation, but this permission has now expired.
- 8.14 The proposed development would result in the reduction of the useable floor space to the A2 unit, but this would only represent a small area to create a staircase to the first floor accommodation. It is considered that the introduction of a first floor apartment would benefit businesses in the town centre and outweigh the small reduction to the floor area of the A2 unit.
- 8.15 In view of the above, it is considered that the creation of the proposed first floor accommodation and small reduction of the floor space to the A2 unit would not cause significant harm to the vitality and viability of Clay Cross town centre.

Privacy and Amenity Considerations

- 8.16 The proposed development looks to insert a staircase at ground floor level from a doorway opening out onto High Street to the west, which will lead into a first floor two bedroom apartment. There would be no other changes to the ground floor A2 unit.
- 8.17 The new first floor accommodation would be provided with two bedrooms, open plan kitchen, diner and lounge area. The main bedroom would include an en-suite bathroom. The main bathroom would include a window which would face south towards the neighbouring property, a former public house. Five roof lights are also proposed in the forward facing roof slope onto High Street and Market Street.
- 8.18 The property most likely to be affected by the proposed development would be the former public house to the south, which had permission to be converted into flats, but this permission has lapsed. Any views from the first floor bathroom window would be back towards a blank gable, however views back towards this window may be achievable from the well-used public car park to the south. I therefore consider that this window should be obscured in nature and include only a top hung window to safeguard the privacy of future residents.
- 8.19 The proposed roof lights would open out on the forward facing roof slope, behind a high parapet wall, which would screen them from public views. The Velux windows would not impact upon any neighbouring properties privacy.
- 8.20 It is noted that the proposed apartment would include four low level windows, five Velux roof lights, a roof light over the kitchen area and two sun tubes. The Councils EHO considered the levels of natural light entering the apartment and raised no objection to the level of natural light entering the first floor accommodation. The EHO notes that the provision of sky lights coupled with adequate artificial light should provide satisfactory conditions as to avoid lack of light becoming an issue.
- 8.21 The NPPF at paragraph 127 states that decisions should create spaces with high standards of amenity for existing and future users. Planning policies may also make use of nationally described space standards, where the need for an internal space standard can be justified. No such space standards have been adopted by the Council. Nevertheless, the proposal would form a good sized two bedroom apartment, with open plan living accommodation, master bathroom and en-suite. It is

therefore not considered that the level of accommodation is cramped or unsuitable; in fact it has the potential to offer a good standard of living accommodation in what is a sustainable central town centre location.

- 8.22 No outdoor amenity space is proposed for the apartment. The Councils Successful Places Interim Planning Guidance considers that usually 25sqm of outdoor amenity space should be provided per flat; however this may be relaxed in town centre locations. It is noted that open green space is only a short walk away from the apartment and as such the proposed development would not result in harm to future resident's amenity.

Highway Safety Considerations

- 8.23 The proposed development would result in a new first floor apartment being created above the former Natwest bank, which has approval for change of use to retail. One parking space would be provided to the south east of the building, accessed from Market Street.
- 8.24 The Highways Authority note that off street parking in this location is deficient, however given the sites town centre location and availability of parking in close proximity there is no objection to the proposed development from a highway safety viewpoint.

Other Material Considerations

- 8.25 The Council has a public sector equality duty, under Section 149 of the Equality Act 2010, which states that a public authority must have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity between persons and foster good relations between persons who share protected characteristics and persons who don't. Of relevance in this instance, is that the Act covers the interests of people with disabilities. The impact on the proposed development on future users of the site is considered below.
- 8.26 The Councils EHO was consulted on the proposed development and due to the location of the site close to a busy road network and in an urban environment it is considered that a condition to protect the aural amenity of future residents should be included in any decision issued by the Council.
- 8.27 Objections were raised by the Parish Council regarding the loss of a disabled access from High Street into the retail unit at ground floor level. They are concerned that it would render the A2 unit non-compliant with the Disability Discrimination Act. The parish point out that the Act suggests that reasonable attempts should be made to satisfy the Act. The parish does not consider that attempts have been made to satisfy the Act.
- 8.28 The Councils EHO was asked to consider the Parish Council comments regarding the loss of a disabled access point. The EHO does not consider it essential that a business should have a disabled access, especially when using an existing building. The EHO considers that the effect would be negative on the business as it may deter disabled people from using that business, but it is not something that the EHO would require.
- 8.29 In addition to the above, it is noted that the access in question includes a step from street level into the building and would have unlikely represented a suitable disabled access. Furthermore, it is noted that the retained access into the retail unit has the capability to be modified to allow disabled access if necessary. Therefore it is not considered that a refusal based on the loss of a secondary access point to the retail unit would be sustainable.

8.30 The proposed development included the removal of part of the original roof structure, therefore Derbyshire Wildlife Trust (DWT) requested that an ecological survey should be undertaken prior to determination. This was put to the applicant but it was noted that work had already started on the removal of part of the roof structure. As a result of this work, the case officer visited the site to make an assessment of the potential impact of the works on bats and birds. The visit concluded that the flat roof element had been removed and the pitched roof exposed. Most of the original roof structure would remain unaltered and following discussions with the DWT it was considered that a bat survey would not be necessary in this instance, however the DWT would support the inclusion of a condition for the provision of bird and bat nesting. This could be included as a condition on any approval issued by the Council.

Conclusion

8.31 Having taken into account all the material planning considerations, it is considered that subject to a number of conditions, the proposal complies with the NPPF and the Councils policies.

8.32 The proposed development would involve changes to an unlisted building that makes a positive contribution to the special architectural and historical character of the Conservation Area. It is considered that these changes would be acceptable and result in the proposed development preserving the character of the Conservation Area.

8.33 The proposal would introduce an additional residential unit in the town centre, which would support the redevelopment of a vacant building and not cause significant harm to the vitality and viability of Clay Cross town centre or the privacy and amenity of neighbouring land uses.

8.34 Matters relating to the creation of a disabled access could be addressed under Building Regulations and are not necessary for an existing building in this location. Furthermore, matters relating to aural amenity, car parking and bird/bat mitigation can be controlled by condition on any approval issued by the Council.

8.35 The proposed development is therefore considered to be acceptable.

9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objections
<u>Environmental Health:</u>	No objections subject to conditions
<u>Refuse:</u>	No comments
<u>Yorkshire Water:</u>	No comments
<u>Derbyshire Wildlife Trust:</u>	Comments relating to bat and bird mitigation
<u>Neighbour:</u>	No comments
<u>Parish Council:</u>	Objection
<u>Ward Member:</u>	One supporting comment and another requesting the application be heard by members of planning committee

10.0 RECOMMENDATION

That planning permission is **APPROVED** with the final wording of the conditions delegated to the Planning Manager:-

CONDITIONS

Time Limit/Scale of Development

1. (1.1) Std Time Limit
2. The development hereby approved shall be carried out in accordance with the details shown on the following drawings unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice:
 - Location Plan (dated 25th July 2018)
 - 101 (Proposed Site Block Plan)
 - 102 Rev A (Proposed Site Plan)
 - 104 Rev C (Proposed First Floor Plan)
 - 105 Rev C (Proposed Roof Plan)
 - 106 Rev C (Proposed Elevation and Part Section Plan)

Privacy

3. Prior to the first use of the apartment hereby approved the window shown on the approved plans to the bathroom on the dwellings south elevation shall be fitted with obscure glazing. The obscure glazing shall be of an obscurity equivalent to at least Level 4 of the Pilkington obscure glazing range. The window shall be of a non-opening design or alternatively any opening parts must be more than 1.7m above the floor level of the room in which the window is installed. The window shall then be retained as such thereafter at all times.

Highways

4. The apartment hereby approved shall not be occupied until space has been laid out within the site in accordance with the approved drawing (101 Proposed Site Block Plan) for vehicular turning and parking. Thereafter these facilities shall be retained in accordance with those details at all times.

Ecology

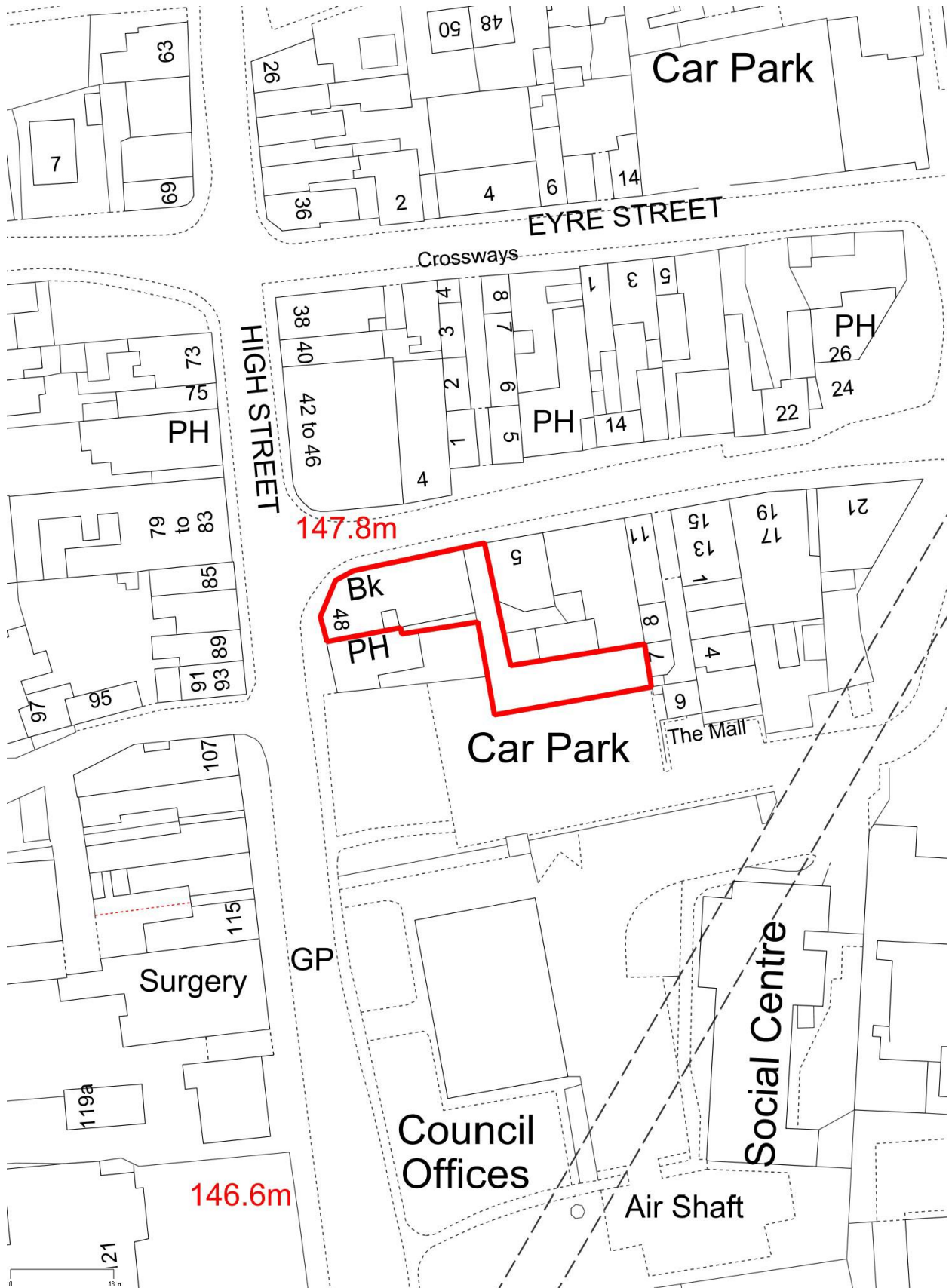
5. Prior to the completion of the apartment hereby approved, a scheme of bird and bat mitigation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type, location and number of bat and bird boxes to be provided on the building. The approved scheme shall then be implemented in full prior to the occupation of the apartment and retained as such thereafter.

Environmental Health

6. Within 30 days of the date of this approval, a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window scenario will not meet the limits set out in this condition. The scheme shall achieve the following criteria:

- Bedrooms 30 dB LA_{eq} (15 Minutes) (2300 hrs – 0700 hrs)
- Living/Bedrooms 35 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)
- All Other Habitable Rooms 40 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)
- All Habitable Rooms 45 dB LA_{max} to occur no more than 6 times per hour

Before any apartment is first occupied the scheme shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. Thereafter the approved scheme shall be implemented in full and retained as such thereafter.



NED/18/00762/FL

APPLICATION NO. 18/00831/FL

APPLICATION Proposed erection of 2 new dwellings (Amended Plans)

LOCATION Land opposite 21-29 on the south side of Egstow Street, Clay Cross

APPLICANT Mr Paul Marshall (PSM Homes Ltd)

CASE OFFICER Mr Nigel Bryan

DATE RECEIVED 3 September 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Cllr Reader

REASON: To consider potential impacts on residential amenity, the character of the area, site history and observations of the Parish Council.

1.0 SITE DESCRIPTION

- 1.1 The application site lies to the end of Egstow Street, Clay Cross. It is understood that the site was formerly garaging, currently only one garage is in situ with the remainder vacant. Boundary treatments are a mixture of a low picket fence to the front with more industrial palisade fencing to the rear. To the immediate south of the application site, and on the same parcel of land, a bungalow has recently been erected having been granted permission under reference 17/00097/FL.
- 1.2 The surrounding area is characterised by terraced properties with industrial buildings to the immediate west and vacant land to the south, adjacent to 32 Egstow Street.

2.0 PROPOSAL

- 2.1 The application is made in full for the erection of two two-bedroom properties. Plot one would face in the same direction as the recently erected bungalow (E-W), with the side facing wall orientated toward 25/27 Egstow Street. Plot two would be to the western edge of the application site and have a more conventional N-S orientation, the same as existing terraced properties Egstow Street. Plot 1 would have accommodation in the roof space whereas plot 2 would be a conventional bungalow. The dwellings are proposed to be constructed of red brick under a grey concrete tile.

3.0 AMENDMENTS

- 3.1 During the course of the application plot 2 to the rear of the site has been amended to be a conventional bungalow as well as minor alterations to the parking for plot 1. Additional public consultation has been undertaken on the additional information.

4.0 PLANNING HISTORY

- 4.1 There is a recent protracted planning history to the application site, summarised below;
- 16/01051/OL – Outline application with all matters reserved except for access for two dwellings – the application was refused permission on the 21st December 2016 on the grounds of being out of character with the area and also the detrimental impacts on residential amenity.
 - 17/00121/OL - Outline application with all matters reserved for 2 dwellings (re-submission of 16/01051/OL) – the application was refused permission and the decision was appealed. The appeal was dismissed and the Inspector refused the application on the grounds of being out of character with the area and detrimental to the amenity of neighbouring properties. The appeal decision was dated 2nd February 2018.
 - 17/00871/OL - Outline application with some matters reserved for 2 detached two bed dwellings (revised scheme of 17/00121/OL) – the application was granted permission at the Planning Committee, in accordance with the Officer recommendation, on the 25 October 2017.

5.0 PLANNING POLICY CONSIDERATIONS

5.1 North East Derbyshire District Local Plan (adopted 2005)

GS1 – Sustainable Development
GS5 – Settlement Development Limits
NE1 – Landscape Character
BE1 – General Design Principles
H2 – Housing Development on other sites within the settlement Development Limits
H12 – Design and Layout of new housing
T2 – Highway Access and the impact of new development
T9 – Car parking provision
CSU4 – Surface and foul water drainage
CSU6 - Contaminated land

5.2 North East Derbyshire District Local Plan (publication draft)

SS1 – Sustainable Development
SS2 – Spatial Strategy and the distribution of development
SS7 – Development on unallocated land within defined settlement development limits
LC4 – Type and mix of housing
SDC3 – Landscape character
SDC12 – High Quality Design and place-making

5.3 National Planning Policy Framework

The NPPF, when read as a whole, is pertinent to the determination of the application.

5.4 Other (specify)

Successful Places guidance

For the avoidance of doubt, the application is not affected by a Neighbourhood Plan.

6.0 **PUBLICITY, CONSULTATIONS AND REPRESENTATIONS**

6.1 **Highway authority (DCC)** – note that the site is accessed from a road not adopted as public highway; however, they make a number of observations on the application with regard to parking provision and highway safety. Subject to conditions, the Authority raise no objection to the application.

6.2 **Yorkshire Water** – make no observations on the application.

6.3 **Environmental Health** – request conditions be added to the decision notice with regard to possible contamination and also noise given the existing brownfield nature of the site and possible noise given adjacent industrial uses.

6.4 **Cllr Reader** – the application does not address previous concerns over impacts on amenity or impacts on the highway during the construction of the dwellings.

6.5 **Parish Council** – Object to the application on the grounds of the poor access; overshadowing and loss of outlook; loss of privacy; highway safety and the increase in vehicles; and the impacts of further construction in an already restricted area.

6.6 A site notice was erected on the 14th September 2018 to the front of the site and expired on the 5th October 2018. Consultation letters were also sent to a number of properties. As a result of consultation undertaken **no responses were received from local residents.**

7.0 **PLANNING CONSIDERATIONS**

7.1 The primary planning considerations are considered to be the impact on the character of the area, residential amenity and highway safety; having regard to the planning history of the site and pertinent Local Plan policies and National Policy Guidance.

8.0 **PLANNING ASSESSMENT**

8.1 **Principle of development** - the application site falls within the Settlement Development limit of Clay Cross, one of the four most sustainable settlements within the District and has good access to services, as well as being on what appears previously developed land. Furthermore, there is an extant permission for the erection of two dwellings under reference 17/00871/OL, with access, layout and scale having been approved. As a result the principle of residential development is supported in this location.

8.2 Having regard to the appeal decision on application 17/00121/OL and permission 17/00871/OL, the main considerations on the application are considered to be the impact on the character of the area and residential amenity.

- 8.3 **Impact on character of the area** – The Inspector in her deliberations considered that plot 2 would respect the character of the area, which will be orientated in the same direction as the existing terraced properties, however plot 1 would be out of character with the area given that it would have a gable adjacent to Egstow Street. The appeal decision was issued after the grant of outline permission 17/00871/OL, which approved access, layout and scale. As a result the applicants have a fall-back position of applying for the remaining reserved matters, namely appearance and landscaping.
- 8.4 Under the current application the dwellings would be orientated in the same direction as previously approved, the same direction in which the Inspector expressed concern over plot 1. However, plot 1 would be orientated in the same direction as the existing bungalow recently built and a kitchen and bathroom window are proposed in the side elevation of the property overlooking Egstow Street. Therefore, whilst plot 1 would be at right angles to the main street it would be a corner plot with windows on both elevations. Despite the concern of the Inspector the applicant has a fall back permission in place and, weighing all the above factors into consideration, on balance, the scheme is considered to be acceptable and integrate in terms of character with the recently erected bungalow to the south.
- 8.5 Plot 2 would now be a conventional bungalow orientated toward Egstow Street with parking to the front. Taking into account the elevation treatments and the surrounding built form it is considered that plot 2 would respect the character of the area and the application is deemed to comply with policy H12 of the Adopted North East Derbyshire Local Plan and SDC12 of the Publication Draft Local Plan.
- 8.6 **Impact on residential amenity** – As above, it is noted that the Inspector in her deliberations considered that the amenity of existing and proposed occupiers would be compromised given the tight relationship between existing and proposed dwellings. However, to address this concern plot 2 has been amended to a conventional bungalow with a reduced eave and ridge height, thereby reducing any overbearing impact. There would be an element of mutual overlooking between existing and proposed dwellings, which would be inevitable given the terraced nature of surrounding properties; however, the windows in the side of 16 Egstow Street are secondary and no closer to plot 1 than the habitable room windows of properties on either side of Egstow Street.
- 8.7 It is also apparent that in the Successful Places guidance a garden area of 50sqm would be sought for one and two bedroom properties. This could be achieved for plot 1 whilst plot 2 would be slightly below. However, plot 2 is more modest in scale, with no accommodation in the roofspace, and taking away permitted development rights for future extensions would ensure that the garden area would be retained. Therefore, taking into account changes made to the application, the Inspectors observations on application 17/00121/OL, along with the fact that an extant permission is in place for the site, it is considered that any detrimental impacts on residential amenity would not be significant or justify a refusal of permission.
- 8.8 **Highway considerations** – adequate parking provision is proposed with 2 spaces for each property. The dwellings would be accessed off an unadopted road but vehicle speeds are likely to be exceptionally low and on-street parking

not increase as a result of this application. The highway authority raise no objection to the application, subject to the imposition of conditions.

- 8.9 **Other matters** – given that there is an element of hardstanding and a garage it is considered necessary to add a condition requiring the exploration of the land for contamination, as was done on permission 17/00871/OL. Details of drainage would also need to be approved, with it likely, given the modest rear gardens, that surface water would need to be discharged to a combined sewer rather than soakaways. A recommendation of a noise condition has also been made by Environmental health but given that one was not attached to extant permission 17/00871/OL, or permission 17/00097/FL for the adjacent new bungalow it is considered unreasonable to impose one now.

Conclusion

- 8.10 Having regard to the above, in weighing the extant outline permission and observations of the Planning Inspector, it is considered that the application as amended would respect the character of the area and residential amenity, in a location where the principle of development is supported.
- 8.11 As a result the application is deemed to comply with policies GS1, GS5, NE1, BE1, H2, H12, T2, T9, CSU4 and CSU6 of the North East Derbyshire Local Plan (adopted 2005); policies SS1, SS2, SS7, LC4, SDC3 and SDC12 of the North East Derbyshire Local Plan (publication draft) and guidance within the NPPF.

9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objection, subject to conditions
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	No objection, subject to conditions
<u>Drainage:</u>	N/A
<u>Access Officer:</u>	N/A
<u>Neighbour:</u>	No observations received
<u>Others:</u>	
<u>Ward Member:</u>	Object
<u>Parish Council:</u>	Object

10.0 RECOMMENDATION

That the planning application is APPROVED, subject to the below conditions, the final wording of which is delegated to the Planning Manager:-

- 1 The development hereby permitted shall be started within 3 years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the below plans

JG/PSM/018/029/01 REV F

Site location plan

unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice.

- 3 Before above ground work commences, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, shall be made available on site for inspection, and subsequent written approval, by the Local Planning Authority; the development shall then be carried out in accordance with the approved details.
- 4 Notwithstanding any submitted details, before development starts a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of the dwelling hereby approved and it shall be retained as approved unless otherwise agreed in writing by the Local Planning Authority.
- 5 Before development starts, details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site, relative to a datum point which is to remain undisturbed during the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.
- 6 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no extensions (Part 1 Class A) dormer windows (Part 1 Class B) alterations to the roof (Part 1 Class C) or curtilage buildings (Part 1 Class E) shall be constructed without first obtaining planning permission.
- 7 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order), no windows shall be installed at or above first floor level without first obtaining planning permission
- 8 No dwelling shall be occupied until a 1m parallel visibility sightline has been provided around the perimeter of Plot 1, the area in advance of the sightline being kept clear, in perpetuity, of any obstructions in excess of 1m, measured above the adjacent carriageway channel level.
- 9 Before construction works commence on the proposed dwellings, 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 designated use throughout the construction period.
- 10 No dwellings shall be occupied until space has been laid out within the site in accordance with drawing JG/PSM/018/029/01 REV F for 2 cars to be parked

within the site per dwelling. These facilities shall thereafter be retained for use at all times.

- 11 Before above ground work commences, a scheme for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is brought into use and shall be retained as such thereafter.
- 12 Before the commencement of the development hereby approved:
 - a) A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment shall include a desk-study with details of the history of the site use including:
 - o the likely presence of potentially hazardous materials and substances,
 - o their likely nature, extent and scale,
 - o whether or not they originated from the site,
 - o a conceptual model of pollutant-receptor linkages,
 - o an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments
 - o Details of an intrusive site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

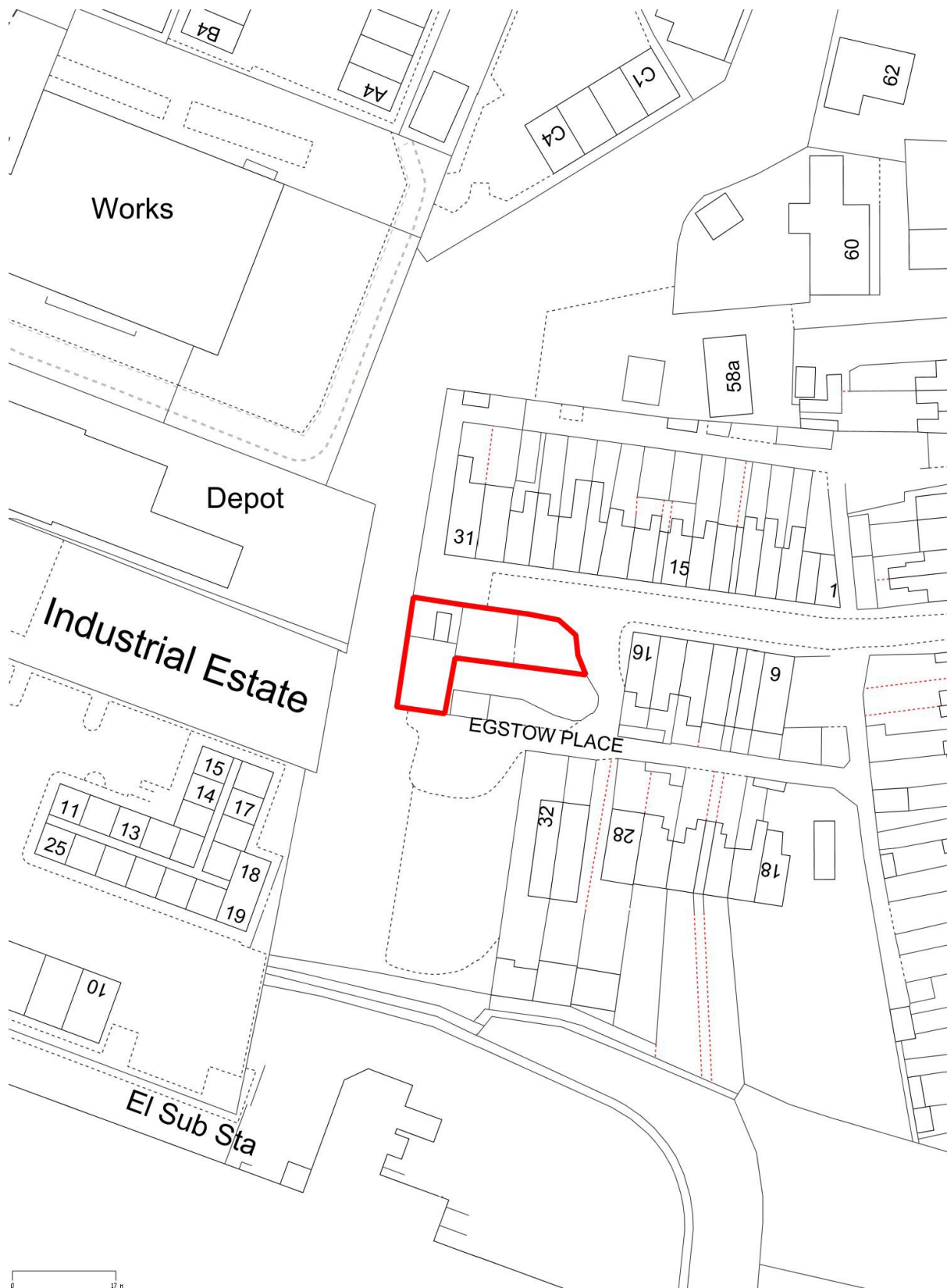
- 13 Before the commencement of the development hereby approved:

Where a site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

14 None of the dwellings hereby approved shall be developed until:

- a) The approved remediation works required by 13 above have been carried out in full in compliance with the approved methodology and best practice. If during the works new areas of contamination are discovered, which have not previously been identified, then the additional contamination shall be re-evaluated through the process described in 12b to 13 above and,
- b) Upon completion of the remediation works required by 13 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.



NED/18/00831/FL

APPLICATION NO. 18/01006/FL

APPLICATION Change of use from Public House to residential dwelling with alterations to openings and new glass balustrade to front (revised scheme of 18/00690/FL) (Amended Plans)

LOCATION The Barrack Hotel, Barrack Road, Apperknowle

APPLICANT Chris Sinclair

CASE OFFICER Colin Wilson

DATE RECEIVED 11 October 2018

REFERRED TO COMMITTEE BY: Cllr Rosie Smith

REASON: Amount of public opposition to the scheme.

The Site Inspection Group is to visit the site to assess the impact on the character of the area, amenity issues and highway safety.

1.0 SITE DESCRIPTION

- 1.1 The application site comprises the Barrack Hotel, a public house situated within the defined Settlement Development Limits for Apperknowle. The premises fronts Barrack Road and is adjoined by greenspace at its rear and side boundaries. Land to the immediate south of the application site is designated as North East Derbyshire Green Belt.
- 1.2 The building comprises a substantial stone built public house fronting Barrack Road. The premises comprises living accommodation at first floor level and has a rear garden, which is at an elevated position to the north of the building.
- 1.3 The application site (as defined by the submitted Location Plan) does not benefit from any allocated off street parking.
- 1.4 The application site is situated within a Coal Mining Development High Risk Area. Officer Note: Officers are of the view that the proposed change of use is in accordance with The Coal Authority's Exception List for the Risk Based Approach to Development Management. Therefore, it is considered that an assessment of coal mining legacy issues is not required as part of this application.

2.0 PROPOSAL

- 2.1 Full planning permission is sought for the change of use from public house to residential dwelling with alterations to openings and new glass balustrade to front.
- 2.2 The proposed development seeks to convert the existing public house to a single 4 bedroom property. The proposals include external alterations to the existing building, which can generally be summarised as follows:

- Introduction of an aluminium balustrade with a glass panel infill system at the frontage of the premises.
- Removal of existing porch and introduction of glazed doors at the principal elevation of the building.
- Amendments to the existing fenestration, including replacement windows and a new entrance.
- New rain water goods (to match existing).
- New roof covering and rooflight at the single storey rear element of the existing building.

2.3 The application is a revised scheme of 18/00690/FL, which also sought full planning permission for a change of use of the existing public house to a residential use (single dwelling). Application 18/00690/FL was withdrawn by the applicant. The principal alteration in the revised scheme is that land to the north-west of the building subject of this application has been removed from the site area.

3.0 AMENDMENTS

3.1 In response to comments received by Derbyshire County Council Highways Officers, amended plans have been received with the parking provision omitted from the scheme. Highways Officers stated that the proposed parking layout included in the plans initially submitted with this application were unsatisfactory. Moreover, because the current planning use (public house) does not benefit from any onsite parking provision, there is no requirement for the creation of new parking spaces within the application site.

3.2 For clarity and the avoidance of doubt, the application has been assessed on the basis of the plans received at this office on 08.11.2018.

4.0 PLANNING HISTORY

4.1 The relevant planning history for the site can be summarised as follows:

18/00690/FL – Change of use to residential – Withdrawn

07/00691/FL – Construction of patio to front of building – Conditionally Approved.

05/00261/FL – Construction of single storey rear extension to form utility store – Conditionally Approved.

87/00007/FL – Construction of a front porch and alterations at the rear – Conditionally Approved.

87/00006/FL – Car park on land opposite – Conditional Permission.

78/00006/FL – Creation of car park on land adjacent – Conditionally Approved.

5.0 PLANNING POLICY CONSIDERATIONS

North East Derbyshire District Local Plan

5.1 The North East Derbyshire Local Plan (adopted November 2005) forms the Development Plan for the area.

5.2 The Local Plan policies most relevant to the proposals are set out below:

- GS5 Settlement Development Limits.
- GS7 Change of Use and Conversions
- SH8 Loss of Local Facilities
- T2 Highway Access and the Impact of New Development
- T9 Car Parking Provision

5.3 The Council is now at an advanced stage in the production of a new Local Plan which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.

5.4 The following Local Plan: Publication Draft policies are relevant to this application and are a material consideration.

SS1 Sustainable Development

SS7 Development on Unallocated Land within Settlements with defined Settlement Development Limits

ID3 Sustainable Travel

ID5 Loss of Existing Social Infrastructure

National Planning Policy Framework

The overarching aims of the National Planning Policy Framework (NPPF) (as amended July 2018) have been considered in the assessment of this application.

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 The application was publicised by display of a site notice. 12 Letters of representation were received and can be summarised as follows:

- The proposed development would result in the loss of a community asset. Officer Note: For clarity and the avoidance of doubt, the premises subject of this application does not comprise a designated Asset of Community Value.
- The public house is an important social hub for many residents of Apperknowle, reducing social isolation. The pub fosters a good community spirit.
- The initial application (18/00690/FL) relating to the site was withdrawn meaning that the initial objections will not be taken into account.
- The applicant has made no attempt to increase the revenue of this public house, making no improvements to the premises since purchase.
- The applicant is seeking to convert a valued local facility to a residential use, resulting in a personal financial gain whilst depriving many of a village amenity.
- Since the public house has closed there has been a dispersal of the local community, as people are no longer spending time together.

- Pubs play an important role creating cohesion, local character, contributing to the local economy and providing an important focal point for local communities.
- The premises represents the most accessible public house in the locality. There is not another pub within the heart of the village.
- The Barrack Hotel was opened between 1872-1880 and has a lot of history.
- Many public houses are being closed and it is the role of the Local Authority to assist in stopping this trend.
- It is stated in the application that Apperknowle has a good bus service, which is incorrect as buses stop running at 6:30pm and do not run at all on Sundays.
- Apperknowle has already lost a number of community facilities.
- The projected plans are for a large family home, only 2 parking spaces are offered, neither of which would adequately fit modern cars, the road which provides access is a single-track highway. The proposals would negatively affect other road users.
- The Travellers Rest is over 600m away from the premises subject of this application and is far less accessible as a consequence of its location outside the village and being accessed by a 60mph road with no footpaths.
- The distance of other pubs from the site makes this proposal contrary to the requirements of Local Plan Policy SH8.
- When open, the pub was often frequented by customers from outside the village.
- There is a manhole cover over a sewage drain in the back room of the pub, which should presumably be outside the building.
- The site notice was not correctly displayed. Officer Note: at the time of Officers visit to the site, a site notice was clearly displayed at the principal elevation of the building subject of this application. Officers are satisfied that the proposals have been publicised correctly.

7.0 PLANNING CONSIDERATIONS

- 7.1 The main considerations for this application are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding area, impact on the privacy and amenity of neighbours, and highway safety issues.

8.0 PLANNING ASSESSMENT

Principle of Development

- 8.1 Local Plan Policy GS7 relates to change of use and conversions and is therefore applicable in the assessment of this application. The Policy states that planning permission for change of use will be permitted provided that the use, scale or type of operation will not have an adverse effect upon the character of the area or neighbouring land uses. Planning permission for the conversion or change of use of an existing building will be granted provided that:

- (a) the building is of a permanent and substantial construction;

- (b) where a building is situated outside a Settlement Development Limit it is capable of conversion without the need for major rebuilding or extension;
 - (c) the form, scale, massing, materials, general design and appearance of the development respects the character and appearance of the original building, the site and its surroundings with particular regard to local distinctiveness in design; and
 - (d) the proposed use of the curtilage of the building does not have an adverse effect upon the character of the area or neighbouring land uses.
- 8.2 In this instance, it is apparent that the building is of a permanent and substantial construction and is situated within the defined Settlement Development Limits for Apperknowle. The works required to make the premises habitable as a dwelling are not considered to detract significantly from the character and appearance of the original building or the surrounding area. Consequently, the proposed development is considered to accord with tests set out in Local Plan Policy GS7.
- 8.3 Local Plan Policy SH8 relates to the loss of local facilities. The Policy states that the change of use or demolition of existing shopping facilities or public houses, which serve the local community, will not be permitted unless:
- (a) there are adequate alternative facilities elsewhere within the vicinity of the site; or
 - (b) it can be demonstrated that there is no demand for such a facility in the area within which it is located.
- 8.4 In this case, Officers are of the view that the proposed change of use would accord with the requirements SH8(a), as a consequence of there being alternative facilities within the vicinity of the site, most notably The Travellers Rest on High Street, which by virtue of its location, is generally considered to serve the same community as the premises subject of this application. The Travellers Rest is positioned approximately 500m walk (300m as the crow flies) from the Barrack Hotel and is situated in close proximity to the built framework of the village.
- 8.5 On balance, Officers are of the view that the community will continue to be served by a public house in a comparatively accessible location. Therefore, the loss of the Barrack Hotel as a community facility is considered to be satisfactorily mitigated, in accordance with Policy SH8 of the North East Derbyshire Local Plan.
- 8.6 Policy ID5 of the Council's Emerging Local Plan (Publication Draft) relates to the loss of existing social infrastructure. Whilst the Policy is generally in conformity with saved Policy SH8 of the Development Plan, the policy sets out that 'Development proposals which would result in the loss of social infrastructure facilities will not be permitted unless: it can be shown that the facility is no longer needed, or that the service could be adequately provided in an alternative way, or elsewhere in an alternative location that is equally accessible by public transport, walking or cycling...'
- 8.7 Whilst the Emerging Local Plan Policy ID5 is afforded some weight in the assessment of this application, that weight is considered to be limited. Notwithstanding this, Officers are of the view that alternative provision is

already provided in the locality, in a location easily accessible from Apperknowle by sustainable modes of transport.

Highway Safety

- 8.8 Derbyshire County Council Highways Officers were consulted on the application, advising that the proposed change of use would not require the provision of any onsite parking provision, as the existing planning unit does not benefit from any allocated onsite parking. Consequently, guided by the comments of DCC Highways Officers, Officers have no reason to conclude that the application would be unacceptable in highway safety terms.
- 8.9 Derbyshire County Council Highways Officers stated that the initially submitted parking layout is unacceptable. As a consequence of the advice from Highways Officers, the scheme has been amended by way of omission of the allocated parking bays at the frontage of the site.

Conclusion

- 8.10 In light of the above considerations, the proposed change of use is considered to represent a form of development that accords with the applicable Local Plan Policies and the NPPF when read as a whole. Consequently, on balance, the proposals are considered to be acceptable.

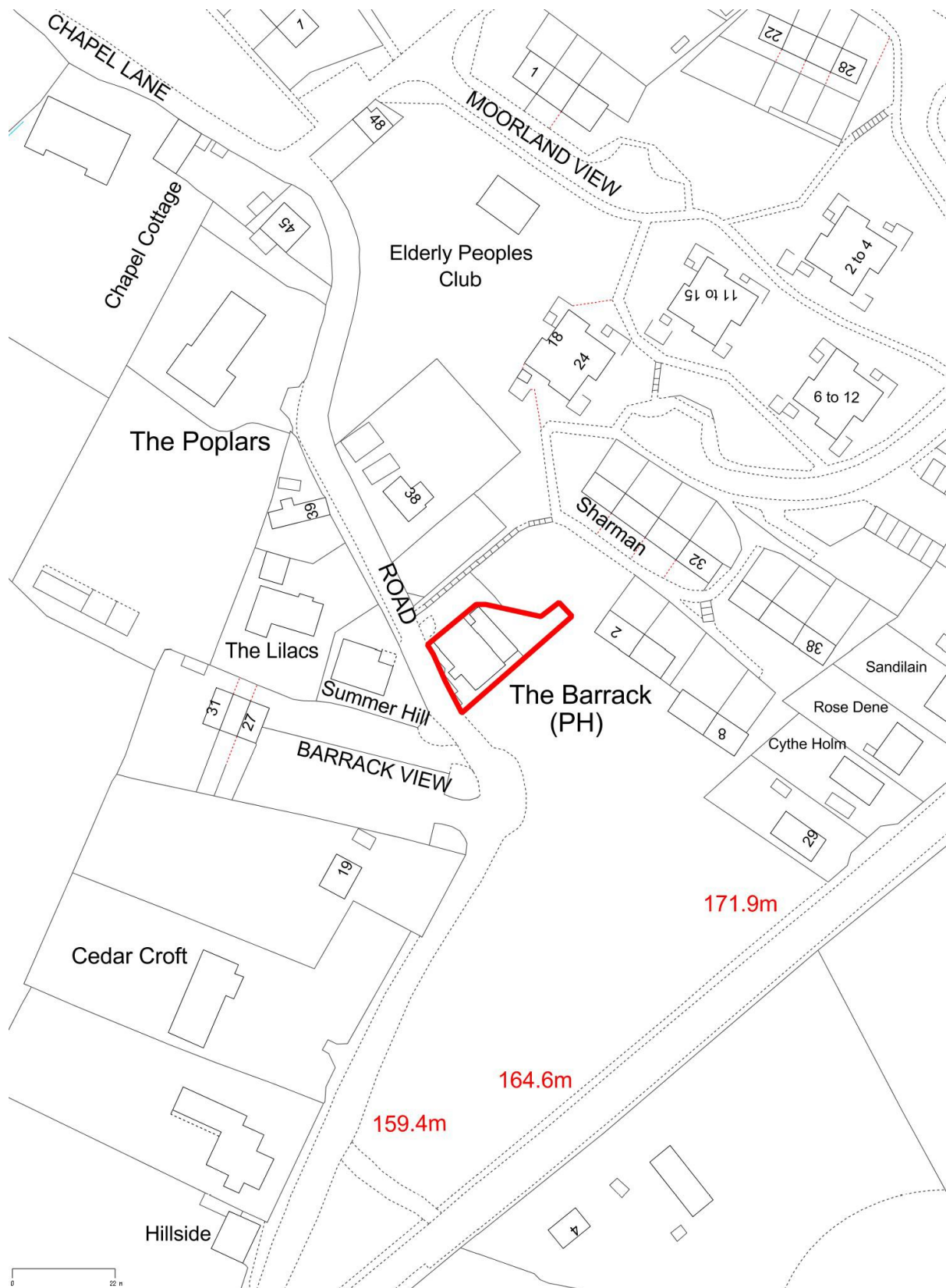
9.0 SUMMARY OF CONSULTATIONS

- 9.1 County Highways: No objections
County Planning: N/A
Environmental Health: No comments
Drainage: N/A
Access Officer: N/A
Footpath: N/A
Neighbour: 12 Representations
Others: N/A
Ward Member: Called in for Committee determination.
Parish Council: No comments

10.0 RECOMMENDATION

- 10.1 GRANT Planning permission subject to the following conditions, the final wording of which is delegated to the Planning Manager.
- 1 The development hereby permitted shall be started within 3 years from the date of this permission.
 - 2 The development hereby approved shall be carried out in accordance with the details shown on approved amended drawings received at this office on 08.11.2018, unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice.

- 3 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no [extensions (Part 1 Class A)] [dormer windows (Part 1 Class B)] [alterations to the roof (Part 1 Class C)] [porches (Part 1 Class D)] [curtilage buildings (Part 1 Class E)] [means of enclosure (Part 1 Class E)] [hard surfaces (Part 1 Class F)] [means of enclosure (Part 2 Class A)] shall be [erected/constructed] without first obtaining planning permission.
- 4 Before occupation of the dwelling hereby approved a plan to show the positions, design, materials, height and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall implemented in full no later than 3 months after occupation of the dwelling and shall be retained as approved thereafter.



NED/18/01006/FL

APPLICATION NO. 18/00621/FL
APPLICATION Application for a hand car wash
LOCATION 27 - 39 West Street, Eckington
APPLICANT Mr David Knight
CASE OFFICER Colin Wilson
DATE RECEIVED 18 June 2018

REFERRED TO COMMITTEE BY: Cllr Jacqueline Ridgway

REASON: Highways issues

The Site Inspection Group is to visit the site to assess the impact on the character of the area, amenity issues and highway safety.

1.0 SITE DESCRIPTION

- 1.1 The application site comprises a cars sales lot situated within the defined Settlement Development Limits for Eckington. The premises is situated on the southern side of West Street (B6052) and is adjoined by residential uses to the west and south. Land to the immediate east of the site comprises a car sales use (Royston Auto Centre).
- 1.2 The existing site primarily comprises an area of hardstanding. Existing buildings occupying the site comprise a brick built office building, porta cabin and a valeting building. The buildings in question are all situated within the southern element of the site.
- 1.3 The application site benefits from an existing vehicular access from West Street. The vehicular access is positioned at the north eastern corner of the application site.
- 1.4 The application site is situated within a Coal Mining Development High Risk Area. Officer Note: Officers are of the view that the proposed change of use is in accordance with The Coal Authority's Exception List for the Risk Based Approach to Development Management. Therefore, it is considered that an assessment of coal mining legacy issues is not required as part of this application.

2.0 PROPOSAL

- 2.1 Full planning permission is sought for the change of use of the existing car sales lot to a hand car wash.
- 2.2 The proposed development seeks to utilise the existing hardstanding associated with the car sales lot for the purposes of cleaning cars. The proposals include alterations to the site, which can generally be summarised as follows:
 - Installation of hoardings to split bays.

- Siting of a steel storage container for equipment. The storage container would house the equipment said to be most likely to cause noise. The container would comprise a footprint of 2.4m x 6m, and would measure 2.4m in height.
- Implementation of a drainage scheme, including Aco drains and 1000 litre silt/oil sump trap.

3.0 AMENDMENTS

- 3.1 The amendments to the initially submitted scheme comprise the siting of a storage container at the south eastern corner of the site. In light of recommendations made in the applicant's noise assessment, it is also intended that the existing fence at the western boundary of the site will either be repaired or rebuilt to form an acoustic barrier.
- 3.2 For clarity and the avoidance of doubt, the application has been assessed on the basis of the amended plans received at this office on 12.09.2018.

4.0 PLANNING HISTORY

- 4.1 The relevant planning history for the site can be summarised as follows:
 05/01297/FL – Installation of a two bay freestanding spray booth building with external ducting – Withdrawn (No Decision)
 06/00447/FL – Construction of valeting bay and alterations to workshops including erection of two flues to incorporate motor vehicle spray booth – Conditionally Approved.

5.0 PLANNING POLICY CONSIDERATIONS

North East Derbyshire District Local Plan

- 5.1 The North East Derbyshire Local Plan (adopted November 2005) forms the Development Plan for the area.
- 5.2 The Local Plan policies most relevant to the proposals are set out below:
- GS5 Settlement Development Limits.
 - GS7 Change of Use and Conversions
 - T2 Highway Access and the Impact of New Development
 - T9 Car Parking Provision
 - CSU4 Surface and Foul Water Drainage
- 5.3 The Council is now at an advanced stage in the production of a new Local Plan which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.
- 5.4 The following Local Plan: Publication Draft policies are relevant to this application and are a material consideration.

SS1 Sustainable Development
SS7 Development on Unallocated Land within Settlements with defined Settlement Development Limits
ID3 Sustainable Travel
SDC11 Flood Risk and Drainage

National Planning Policy Framework

The overarching aims of the National Planning Policy Framework (NPPF) (as amended July 2018) have been considered in the assessment of this application.

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 The application was publicised by neighbour letters and the display of a site notice. 1 letter of representation was received and can be summarised as follows:

- A query was raised regarding opening hours of the proposed car wash. Officer note: the stated opening hours in the application forms are 9am to 6pm (Mondays to Saturdays) and 9am to 5pm on Sundays and Bank Holidays.
- Residents have concerns regarding noise, security and a loss of privacy.
- It is felt that if the fence (along the western boundary of the site) was altered to restrict views from the site into the gardens of adjoining properties, it would go a long way to making residents feel more secure.
- The spotlights on site at the moment do shine into residents' gardens and properties.
- Overall, no major objections to the proposals are raised but the aforementioned concerns could be rectified.

6.2 The Parish Council and Ward Member were consulted on the application. In light of the above neighbour representations, the Ward Member and Chair of Planning Committee were notified of Officers' intention to approve the application under delegated powers. The application was called in for a Committee determination by the Local Ward Member on the basis of highways issues in the locality.

6.3 Derbyshire County Council Highways Officers were consulted on the application, raising no objections to the scheme from a highway safety perspective.

6.4 North East Derbyshire District Council Environmental Health Officers were consulted on the application, initially requesting that a noise assessment be submitted prior to the determination of the application. Upon receipt of a noise assessment survey provided by the applicant, EHO provided additional consultation comments, advising that there are no objections to the proposed development from an amenity perspective, subject to a planning condition being imposed to secure the recommendations set out in the submitted noise assessment, namely the provision of an acoustic fence at the site's western boundary.

- 6.5 The Water Authority (Yorkshire Water) were consulted on the application, raising no objections to the proposed development subject to conditions.

7.0 PLANNING CONSIDERATIONS

- 7.1 The main considerations for this application are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding area, impact on the privacy and amenity of neighbours, and highway safety issues.

8.0 PLANNING ASSESSMENT

Principle of Development

- 8.1 Local Plan Policy GS7 relates to change of use and conversions and is therefore applicable in the assessment of this application. The Policy states that planning permission for change of use will be permitted provided that the use, scale or type of operation will not have an adverse effect upon the character of the area or neighbouring land uses. Planning permission for the conversion or change of use of an existing building will be granted provided that:
- (a) the building is of a permanent and substantial construction;
 - (b) where a building is situated outside a Settlement Development Limit it is capable of conversion without the need for major rebuilding or extension;
 - (c) the form, scale, massing, materials, general design and appearance of the development respects the character and appearance of the original building, the site and its surroundings with particular regard to local distinctiveness in design; and
 - (d) the proposed use of the curtilage of the building does not have an adverse effect upon the character of the area or neighbouring land uses.

Character of the Area

- 8.2 In this instance, it is not considered that the change of use from a car sales pitch to a hand car wash would have any significantly harmful impacts on the character of the site and wider area. The material alterations to the site are considered to be relatively minor, with site remaining primarily open hardstanding. It is considered that the siting of the proposed storage container within the site would not significantly detract from the character of the site, by virtue of its scale and siting. Moreover, the reuse of the existing buildings onsite is considered to be in accordance with the tests set out in Local Plan Policy GS7.

Neighbouring Land Uses

- 8.3 As regards the impact of the development upon neighbouring land uses, NEDDC Environmental Health Officers (EHO) were consulted on the application. Having reviewed the proposals, EHO advised that the applicant should ideally submit a detailed noise assessment, in advance of the application being determined. Subsequently, a noise assessment was submitted to the Local Planning Authority for consideration. The survey contains recommendations, including the creation of an acoustic fence at the

western boundary of the site to protect the residential amenity of local residents.

- 8.4 In light of the noise assessment, EHO have provided updated consultation comments, raising no objections to the proposed change of use and its stated opening hours, subject to the imposition of a planning condition to secure the recommendations set out in the applicant's noise assessment, namely the creation of an acoustic fence.

Highway Safety

- 8.5 Derbyshire County Council Highways Officers were consulted on the application and raised no objections from a highway safety viewpoint. Whilst Officers acknowledge that vehicular movements to and from the site are likely to increase as a consequence of the change of use proposed, it is not considered that the proposed use would lead to any unduly harmful impacts in terms of highway safety in the locality.
- 8.6 In their consultation comments, Highways Officers stated that the existing access to the site (measured 5.25m wide) is considered to be acceptable for two way traffic to pass safely. Moreover, Highways Officers have stated that visibility splays of 2.4m x 47m are achievable within the highway limits. Therefore, whilst it is thought that the change of use would result in an increase in vehicular activity, the access is considered capable of servicing the proposed use.
- 8.7 The amended plans comprise parking provision for 4 vehicles within the site. Highways Officers have confirmed that the provision of parking spaces within the site for employees and customers is acceptable.

Drainage

- 8.8 Yorkshire water were consulted on the application, raising no objections to the proposed development subject to conditions. They recommended conditions relate to the site being developed with separate systems of drainage for foul and surface water, and the requirement of surface water to pass through an oil, petrol and grit interceptor/separator (the design of which shall be submitted to and approved by the Local Planning Authority).

Conclusion

- 8.9 In summary, it is considered that the proposed conversion represents an acceptable form of development that accords with the applicable Policies contained within the North East Derbyshire Local Plan and National Planning Policy Framework (NPPF).

9.0 SUMMARY OF CONSULTATIONS

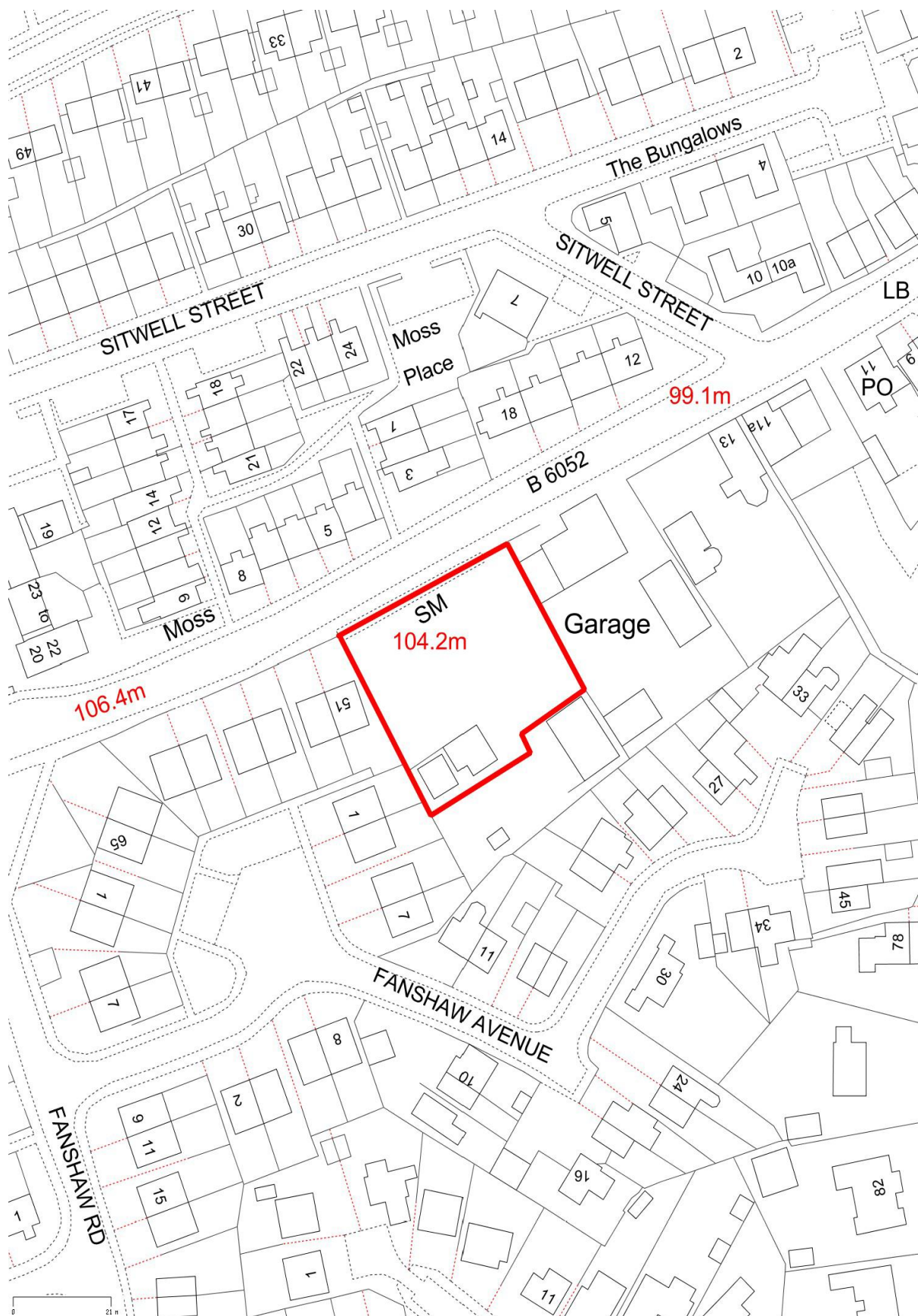
- 9.1 County Highways: No objections
County Planning: N/A
Environmental Health: No objections, subject to conditions
Drainage: No comments
Water Authority: No objections subject to conditions

Access Officer: N/A
Footpath: N/A
Neighbour: 1 representation
Others: N/A
Ward Member: Called in for Committee determination.
Parish Council: No comments

10.0 RECOMMENDATION

10.1 GRANT Planning permission subject to the following conditions, with the final wording delegated to the Planning Manager.

- 1 The development hereby permitted shall be started within 3 years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the details shown on approved amended drawings numbered DK 2018/01 (received at this office on 12.09.2018), unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice.
- 3 Prior to the first of use of the hand car wash hereby approved, the recommendations contained within noise assessment (produced by NoiseAssess and received at this office on 28.10.2018) shall be implemented in full, including the provision of an acoustic fence at the western boundary of the site. The measures identified in the report shall be retained as such thereafter.
- 4 The hand car wash hereby approved shall not be open to customers outside the following times; 09:00 - 18:00 Mondays to Saturdays, and 9:00 – 17:00 on Sundays and Bank Holidays.
- 5 The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 6 Prior to the use hereby approved commencing, details of the means of surface water disposal for the site shall be submitted to and approved in writing by the Local Planning Authority. Any water that will discharge from the forecourt to be used for car washing, where deliveries and/collection of fuel used to operate, and/or where detergent is likely to be used, must pass through an oil, petrol and grit interceptor /separator of an appropriate adequate design. The details as approved shall be implemented in full before the use commences and be retained thereafter whilst the use is in operation.



NED/18/00621/FL