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File No: CHE/18/00194/FUL
Plot No: 2/2057, 2/5940
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ITEM 2

PROPOSED ERECTION OF AN AGRICULTURAL BUILDING FOR GRAZING ANIMALS (REVISED DRAWINGS RECEIVED 21.05.18 AND 03.07.2018) AT LAND NORTH OF BRIDLE ROAD, WOODTHORPE, DERBYSHIRE FOR MRS WEATHERALL

Local Plan: Open Countryside / Other Open Land
Ward: Lowgates / Woodthorpe

1.0 CONSULTATIONS

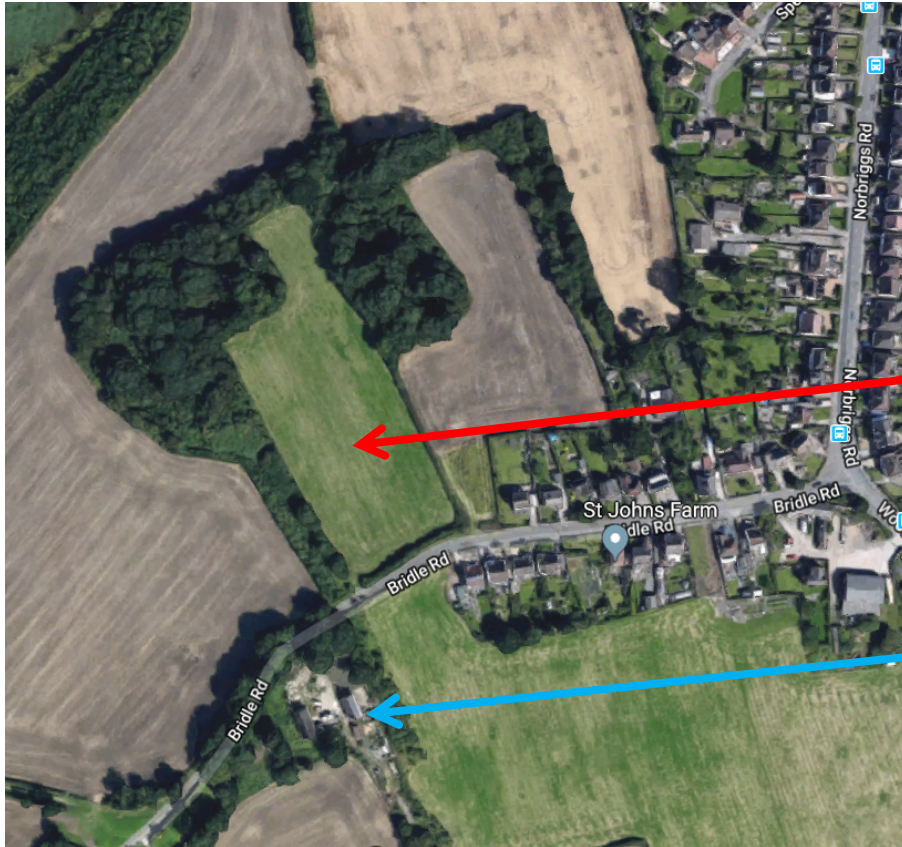
DCC Highways	No objection subject to development being ancillary to residential dwelling, see report
The Coal Authority	Objection initially received due to lack of Coal Mining Risk Assessment. Risk Assessment received and the objection was withdrawn subject to condition requiring intrusive site investigations
Environmental Health (Services)	No comments received
Strategic Planning/ Planning Policy	Objection – proposal contrary to policy, see report
Design Services (Drainage)	Comments received – see report
Ward Members	No comments received
Site notices/advert	One letter of representation received, see report

2.0

THE SITE

2.1

The site subject of this application predominately consists of a large agricultural field/pasture land with parcels of woodland to the north/north west. The site is approximately 1.5 hectares in area overall and located on the north side of Bridle Road (see photographs below). Access to the site is gained from Bridle Road, with a gateway situated in the south western corner of the site.



Existing access to site from Bridle Road



View of application site facing north

3.0 RELEVANT PLANNING HISTORY (Re: Site at 23 Bridle Road)

- 3.1 CHE/17/00804/FUL - Re-submission of CHE/16/00804/FUL - Conversion of existing goat shed/stables into holiday let using shared access drive – **CONDITIONAL PERMISSION (20.12.2017)**.
- 3.2 CHE/16/00804/FUL - Convert existing goat shed/stables into holiday let – **REFUSED (02.02.2017) – APPEAL DISMISSED**
- 3.3 CHE/15/00795/FUL - Goat shed enlargement with stable – **CONDITIONAL PERMISSION (07.03.2016)**
- 3.4 CHE/15/00236/FUL - Re-submission of CHE/14/00754/FUL - Conversion of outbuilding with glass link, take down and rebuild off shot and re-skin out building with stone. Initially for accommodation of a dependant relative and at such a time there after will be used for holiday let - **CONDITIONAL PERMISSION (15.06.2015)**
- 3.5 CHE/14/00716/FUL – Goat shed and stables – **CONDITIONAL PERMISSION (25.11.2014)**
- 3.6 CHE/13/00631/FUL- Erection of a goat shed - **CONDITIONAL PERMISSION (22.01.2014)**

4.0 THE PROPOSAL

- 4.1 The application proposes the erection of an agricultural building, described as a secure building for grazing animals. The proposed building is situated adjacent to the southern boundary of the site. The site is largely screened from Bridle Road by the existing hedgerow which runs parallel to the highway.
- 4.2 The proposed building measures 8.4m x 5m in footprint with an overhanging canopy to the north elevation. The building is formed of a dual pitched roof and incorporates a number of small high level Perspex windows for light, within the north and south elevations. The proposed building will be predominately formed of block work and faced in render with decorative reclaimed brick and stone.

5.0 CONSIDERATIONS

5.1 Planning Policy

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

5.2 Chesterfield Local Plan: Core Strategy 2011 - 2031 ('Core Strategy')

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS7 Management of the Water Cycle
- CS8 Environmental Quality
- CS9 Green infrastructure and Biodiversity
- CS18 Design

5.3 Replacement Chesterfield Local Plan adopted June 2006 (RCLP)

- EVR2 Open Countryside/other open land

5.4 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)

5.5 Key Issues

1. Principle of development;
2. Design and Appearance Considerations (including Neighbouring Impact)
3. Highway issues;
4. Land Stability;
5. Flood risk and drainage;

5.6 Principle of Development

5.6.1 The site is situated within the open countryside to the west of the built settlement of Woodthorpe. Having regard to the nature of the application proposals, policy EVR2 of the Local Plan 2006, Policy

CS9 and CS18 of the Chesterfield Local Plan: Core Strategy (adopted July 2013) and the wider National Planning Policy Framework apply.

- 5.6.2 The countryside designation of Policy EVR2 of the 2006 Local Plan is protected and carried forward as part of the adopted Core Strategy. The principles of EVR2 state that new development will not be accepted in the open countryside unless it is associated with the needs of agriculture / forestry; or related to recreation, tourism or other types of farm / rural diversification.
- 5.6.3 Policy CS9 of the Core Strategy states that development should not harm the character or function of the Green Belt, Green Wedges, Strategic Gaps and Local green spaces.
- 5.6.4 Policy CS18 of the Core Strategy 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.
- 5.6.5 The Strategic Planning/Planning Policy Team were consulted on the proposal and provided the following comments; *'The proposal is for the erection of a bricks and render with exposed stone agricultural building on land designated as Open Countryside under saved policy EVR2. The site is on the edge of Woodthorpe, and within the Lowgates/Netherthorpe and Woodthorpe/Mastin Moor Strategic Gap. The critical matter is whether the development is 'necessary for the needs of agriculture', as required by EVR2. When considering applications on unallocated land Policy CS2 also requires evidence to demonstrate that the proposed use 'needs to be in a specific location to serve a defined local need.'*
- 5.6.6 *'There are currently no animals on the land. Although the applicant has provided a CPH number, it is clear that the small number of animals (a site visit by the case officer noted two goats, a number of chickens and ducks) are being kept as 'pets' (as referred to by the applicant) in the applicants' garden. There is no evidence to show that it is part of a farm or business operation.'*
- 5.6.7 *'I do not consider that the keeping of pets falls within the definition of agriculture in Section 336 of the Town and Country Planning Act*

1990: 'horticulture, fruit growing, seed growing, dairy farming; the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land).'

- 5.6.8 *'When determining whether an application for an agricultural building is necessary under EVR2, it is also useful to consider the criteria in the GPDO for agricultural buildings. Part 6 (Class A) of the Second Schedule to the General Permitted Development Order (erection of a building and other operational development on an agricultural unit of 5 ha or more), in order to qualify as permitted development under this part of the GPDO, the building in question must also be "reasonably necessary for the purposes of agriculture within that unit".'*
- 5.6.9 *'A building will not qualify under Part 6 (Class A) if the agricultural activity has not yet started or is being conducted purely or mainly as a hobby. Paragraph D.1 in Part 6 of the GPDO clearly states that, for the purposes of Part 6, "agricultural land" means land which, before development permitted by this part is carried out, is land in use for agriculture for the purpose of a trade or business (i.e. there must be an existing agricultural use and this must be a business, not a hobby).'*
- 5.6.10 *'I appreciate the applicant wants to expand the number of animals and is seeking a secure place to house them, but as the existing animals are being kept as pets on domestic garden land and not as part of an existing agricultural business the proposal is not strictly necessary for the needs of agriculture and therefore does not comply with EVR 2.'*
- 5.6.11 *'The site falls within the Lowgates/Netherthorpe and Woodthorpe/Mastin Moor Strategic Gap. The exact boundaries of the Strategic Gaps have not been set in an allocated plan, but weight can be given to the boundaries that were subject to public consultation in the Draft Local Plan in 2017. The proposed building is relatively small and is located at the edge of the gap near to the western boundary. Due to the scale and the location within the gap, it is unlikely that the proposed development would significantly harm the function of the Strategic Gap and therefore does not conflict with policy CS9 in this regard.'*

5.6.12 *'I have not commented on detailed matters such as design because I object to the proposal in principle. It is not necessary for the needs of agriculture and therefore does not comply with policy EVR2 or CS2.'*

Officer comments

5.6.13 The comments received from the Policy team argue that the proposal represents a departure from the local plan, contrary to policy EVR2. The proposed agricultural building is situated to the north of Bridle Road on the opposite side of the highway to the applicant's dwellinghouse. The proposal aims to provide secure housing for the animals on the parcel of land separate from the main dwellinghouse. The applicant has a registered small holding with a CPH (Country Parish Number). The Case Officer has visited the site and confirm that a number of animals are currently being kept by the applicant. The application site is a large agricultural field which can be used as grazing land for animals. The proposed development is not considered to detract from the openness/character of the open countryside and it is not unusual to site buildings of this nature on pasture land. The Policy team support this assertion and state that the proposal does not conflict with policy CS9 with respect to its scale and location. It is therefore considered unreasonable to suggest that a secure building for animals on this land is unacceptable.

5.6.14 It is necessary to acknowledge the surrounding site history (see section 3.0) whereby applications have been received and approved for the erection of 'goat sheds' which have subsequently been converted to holiday let accommodation. The application site is considered to be isolated from the existing collection of dwellings and outbuildings situated on the opposite side of Bridle Road highway around No 23. Whilst it is accepted that the nearby site history may suggest a trend in ascertaining permission of buildings of this nature and then applying to convert them, it would be unreasonable to judge this application on the basis of any prospective threat of the same happening. Each application must be assessed on its face value and on its own individual merits. The future conversion of any such building would need to be the subject of further planning permission, which at that stage would be the correct time to judge any such proposal. What needs to be considered is the potential for the building, if approved, to be extended under permitted development rights and therefore

recommended that a condition be attached removing any such rights to extend or alter the building in the future without it being the subject of a formal planning application.

5.7 **Design and Appearance Considerations (including Neighbouring Impact)**

5.7.1 The proposed shelter is considered to be appropriately sited having regard to the fact the development is to be positioned on land that is still designated as open countryside. The proposal will also be predominately screened from Bridle Road highway by the existing hedgerows.

5.7.2 The design of the development is considered appropriate in so far as it is detailed to be finished with materials which would not appear out of character within the surrounding area.

5.7.3 The use of the land for agricultural/grazing purposes is considered to be acceptable and is not unusual to see shelters/buildings of this nature on pasture land for the security and safety of the animals.

5.7.4 Having regard to the open countryside Local Plan designation and the design criteria of new development set out in policy CS18 of the Core Strategy the proposed agricultural building is considered to be acceptable. The siting, scale and nature of the application is not considered to cause any adverse impacts on the amenity of nearby residential properties.

5.8 **Highway Safety**

5.8.1 DCC Highways consultation raised no objections to the proposal and made the following comments; *'No objection subject to development remaining private and ancillary to No 23 Bridle Road and agricultural use of surrounding tied land with no future sub-letting or selling-off.'*

5.8.2 **Officer comments – The application site consists of an agricultural field (which could have included the use of the field to graze animals). The development proposed facilitates the provision of a shelter associated with the use of the field for the keeping of animals (which would be accepted as being an activity still associated with the agricultural use of the field). It is therefore considered unnecessary to require the building to**

remain private/ancillary. Overall no adverse highway safety concerns arise as a result of the proposal.

5.9 Land Stability and Coal Mining Risk

- 5.9.1 In respect of potential Coal Mining Risk, the site subject of the application lies within the defined 'referral area'. The Coal Authority were consulted and objected to the proposal due to the lack of a Coal Mining Risk Assessment. The applicant subsequently submitted a Coal Mining Risk Assessment and the objection was withdrawn with the following comments;
- 5.9.2 *'The Coal Authority concurs with the recommendations of the Mining Report and Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.'*
- 5.9.3 *'A condition should therefore require prior to the commencement of development:*
- *The undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity;*
 - *The submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and*
 - *Implementation of those remedial works.*
- The Coal Authority therefore **withdraws its objection** to the proposed development **subject to the imposition of a condition or conditions to secure the above.'***
- 5.9.4 **Officer comments – The above comments have been noted. It is therefore recommended that a condition be attached to the decision requiring intrusive site investigations. The proposal is therefore considered to accord with the provision of CS8 of the Core Strategy.**

5.10 Flood Risk and Drainage

5.10.1 In respect of potential flood risk, the site subject of the application lies within flood zone 1 and is therefore considered to have the low probability of flooding. Design Services (Drainage) were consulted on the proposal and provided the following comments; *'I refer to the application above; the site is not shown to be at risk of flooding, according to the Environment Agency flood maps. It is noted the applicant intends to dispose of surface water via soakaways. Infiltration tests should be carried out and calculations provided in accordance with BRE Digest 365 to ensure no flooding for a 1 in 30 year rainfall event and no flooding of properties for a 1 in 100 year event.'*

5.10.2 Officer comments - The above comments have been noted. The application site is located within flood zone 1 and as such is not considered to be at risk of flooding. The proposal is therefore considered to accord with the provision of CS7 of the Core Strategy.

6.0 REPRESENTATIONS

6.1 The application was advertised by letter sent on 12.04.2018, deadline 03.05.2018. A site notice was also displayed on 30.04.2014, deadline for responses 21.05.2018. On receipt of formal comments from the Strategic Planning/Planning Policy Team, the proposal was identified as a departure from the local plan and as such was re-advertised via site notice displayed on 21.06.2018, deadline for responses 12.07.2018 and an advert was also placed in the Derbyshire Times on 21.06.2016, deadline for responses 12.07.2018.

6.2 At the time of writing this report one letter of representation has been received as a result of the notification process;

15 Bridle Road (dated 29.04.2018 and received 03.05.2018)

6.3 The main points made within the representation are summarised below;

- Type and number of animals

Officer comments – The application is considered to be for a small number of animals associated with the existing small holding at No 23.

- Contamination of the land as a result of the Coalite works
Officer comments – Environmental Health were consulted on the proposal and no comments were provided. The site is existing agricultural fields and will be retained as such.
- Access to the site to repair/maintain the power line
Officer comments – this is considered to be a private matter
- January 2018 a power cable was laid across Bridle Road by Western Power, was this in anticipation of the application being approved
Officer comments – this is not considered to be a material planning consideration.
- How will bedding straw be dealt with. Hopefully not by burning
Officer comments – this is not considered to be a material planning consideration.
- Is the applicant the owner of the land, if not what arrangements existing between the applicant and owner of the land
Officer comments – the applicant has certified that they own the land.
- Movement of animals across Bridle Road could be problematic due to national speed limit and close to a blind bend
Officer comments – the proposed building is to provide secure housing for a small number of animals to be kept in the field.
- Potential clearance of the hedge and Section 15 of the application form should be answered 'yes' with respect to the existing hedgerow.
Officer comments – The proposed building is located 3m from the application site boundary and as such, potential adverse impacts on the hedgerow are considered to be minimal.
- How will the council ensure that safeguards are in place to prevent the shed being converted to a dwelling/holiday let, as happened to the goat shed on land adjacent to the applicants.
Officer comments – it is recommended that a condition be attached to the decision restricting permitted development rights to ensure the building is retain for agricultural purposes and not extended.

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 proposal is considered to be appropriately designed having regard to the nature and character of the surrounding area. The proposal is not considered to result in an adverse impact on the amenities of neighbouring residents or highway safety. As such, the proposal complies with the protected EVR2 designation in the Replacement Chesterfield Borough Council Local Plan (2006); the requirements of policy CS7, CS8, CS9 and CS18 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework.

10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be GRANTED subject to the following 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 / documents (listed below) with the exception of any approved non material amendment.

- Revised block plan (dated 03.07.2018)
- Floor plans and elevations (dated 26.03.2018)
- Revised site location plan (dated 21.05.2018)
- Coal Mining Risk Assessment (dated 08.06.2018)

***Reason** – In order to clarify the extent of the planning permission in the light of guidance set out in “Greater Flexibility for planning permissions” by CLG November 2009*

03. No development shall take place until site investigation works have been undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. Details of the site investigation works shall be submitted to and approved in writing by The Local Planning Authority. The details shall include;

- The submission of a scheme of intrusive site investigations for approval;

- The undertaking of that scheme of intrusive site investigations;
- The submission of a report of findings arising from the intrusive site investigations;
- The submission of a scheme of remedial works for approval; and Implementation of those remedial works.

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.

Reason - *To fully establish the presence and / or 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.*

04. 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 extension, conversion or alterations to the hereby approved building or work as defined within Schedule 2 Part 3, Class Q, R or S and Schedule 2 Part 6, Class B shall be undertaken on site without prior written approval from the Local Planning Authority (by means of formal planning application).

Reason – *To ensure the development remains as approved and allow the Local Planning Authority to regulate and control any future development.*