

Case Officer: Sarah Kay  
Tel. No: (01246) 345786  
Ctte Date: 28<sup>th</sup> August 2018

File No: CHE/18/00225/FUL  
Plot No: 2/1932

## ITEM 1

### ERECTION OF 5 DETACHED DWELLINGS AND DEMOLITION OF REDUNDANT DUTCH BARN (COAL MINING RISK ASSESSMENT REC'D 11/05/2018 AND PRELIMINARY ECOLOGICAL APPRAISAL REC'D 08/07/2018) AT CHESTERFIELD CATTERY, CROW LANE, CHESTERFIELD, DERBYSHIRE, S41 0EQ FOR D THOMAS AND K HEARN

Local Plan: Open Countryside / Other Open Land  
Ward: St Leonards

#### 1.0 CONSULTATIONS

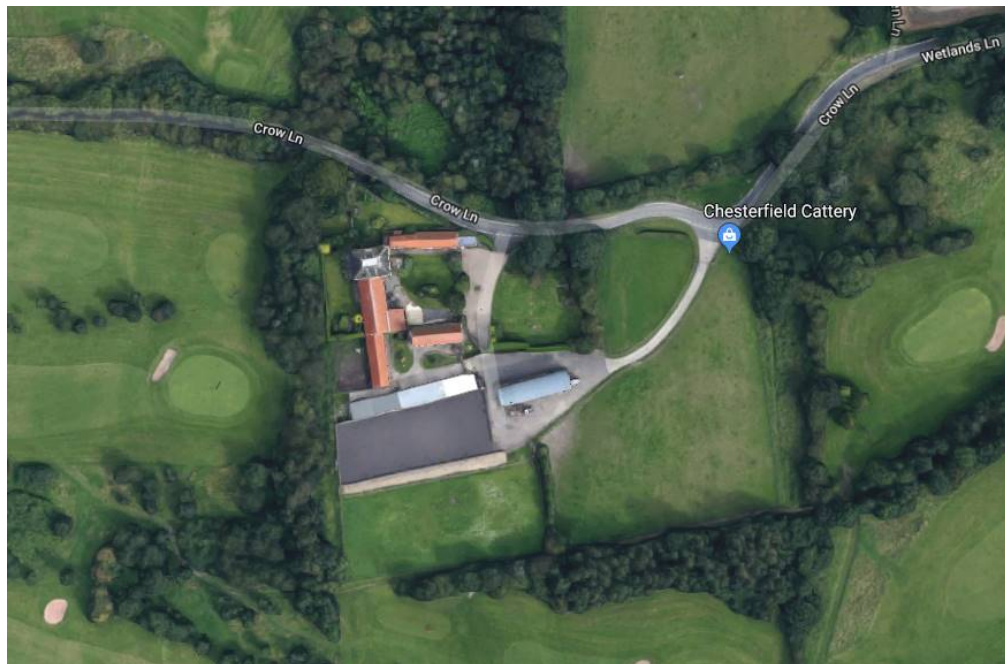
<b>Local Highways Authority</b>	Comments received 26/04/2018, 29/05/2018 and 05/06/2018 – see report
<b>Environmental Services</b>	Comments received 02/05/2018 and 24/05/2018 – see report
<b>Design Services</b>	Comments received 02/05/2018 – see report
<b>Yorkshire Water Services</b>	Comments received 24/04/2018 – see report
<b>Strategic Planning Team</b>	Comments received 30/05/2018, 05/06/2018 and 15/06/2018 – see report
<b>Coal Authority</b>	Comments received 04/05/2018 and 23/05/2018 – see report
<b>Conservation Officer</b>	Comments received 27/04/2018 – see report
<b>Derby &amp; Derbyshire DC Archaeologist</b>	Comments received 11/05/2018 – see report
<b>Derbyshire Wildlife Trust</b>	Comments received 21/05/2018 and 16/07/2018 – see report
<b>Ward Members</b>	No comments received
<b>Site Notice / Neighbours</b>	One representation received

## 2.0 **THE SITE**

2.1 The application relates to the site of Chesterfield Cattery, located off Crow Lane in Chesterfield, which comprises of a residential property (converted barn) and associated barns / outbuildings which have in part been converted to operate as a cattery business. The remainder of the barns / outbuildings are used as stables and there is a large dutch barn and equestrian ménage located to south / south east of the buildings footprint.

2.2 Access to the site is formed with a dedicated driveway connecting to Crow Lane north east of the premises. There are grass paddocks positioned either side of the driveway access and also south of the ménage which lie in the applicants ownership. Beyond the application boundary the site is adjoined by Dobbin Clough Farm (a Grade II listed building) to the north and is surrounded by Tapton (Dobbin Clough) Golf Course.

Figure 1: Aerial Photograph



## 3.0 **RELEVANT SITE HISTORY**

3.1 CHE/1002/0609 - Extension to provide kitchen/preparation room and isolation unit for adj. cattery. Conditional permission 03/12/2002.

- 3.2 CHE/0102/0036 - Change of use from stables to cattery. Conditional permission 02/05/2002.
- 3.3 CHE/1299/0705 - New vehicular access to riding centre. Conditional permission 23/02/2000.
- 3.4 CHE/0599/0235 – Oil tank for heating system. Conditional permission 07/07/1999.
- 3.5 CHE/0198/0032 - Alterations to existing stables and residence/store. Conditional permission 27/03/1998.
- 3.6 CHE/0198/0033 - Listed Building Consent for alterations to residence/store. Conditional permission 27/03/1998.
- 3.7 CHE/0594/0252 - Listed Building Consent for erection of a chimney. Conditional permission 22/07/1994.
- 3.8 CHE/0390/0213 - Erection of chimney and installation of fire and boiler. Conditional permission 13/06/1990.
- 3.9 CHE/0285/0095 - Permission for extension to stable block to form riding school office change of use of hayloft to clubroom toilet and kitchen re-siting of tack room and managers bedsit and temporary residential caravan. Conditional permission 13/06/1985.
- 3.10 CHE/0684/0357 - Permission for bungalow and garage. Conditional permission 13/09/1984.

#### 4.0 **THE PROPOSAL**

- 4.1 This is an application, submitted in full, for the proposed erection of 5 no. detached dwellings on land at Chesterfield Cattery, off Crow Lane.
- 4.2 The development proposed will replace the existing ménage, stable block and dutch barn and will be formed as a row of new development aligned west to east annotated as Plots 1 – 5 facing the principle elevation of the converted barn. The cattery barn is also to be retained however the cattery business will cease. The livery business will also cease. Access to the new dwellings will be taken from the existing driveway, which is located west of the

development proposals and exits onto Crow Lane on the outside of the bend of the existing highway.

4.3 Two different house types are proposed within the scheme (type 1 and 2) with a number of subtle variances to these house types on each plot (handed design, attached / detached garages etc). A breakdown of the plot arrangement is as follows:

**Plot 1** will comprise of house type 1, but instead of an attached garage (as shown on drawing 217.48.1) it will have a detached double garage and four bedrooms.

**Plot 2** will comprise of house type 2 which has an attached double garage and four bedrooms.

**Plot 3** will comprise of house type 1 which has an attached double garage and five bedrooms.

**Plot 4** will comprise of house type 2 which has an attached double garage and four bedrooms.

**Plot 5** will comprise of house type 2 which has an attached double garage and four bedrooms.

4.4 The application submission is supported by the following plans / drawings and documents:

- Site Location Plan
- Proposed Site Plan - 217.48.6
- Proposed Street Scenes – 217.48.6
- House Type 1 Floor Plans – 217.48.1
- House Type 1 Elevations – 217.48.2
- House Type 2 Floor Plans – 217.48.3A
- House Type 2 Elevations – 217.48.4
- Plot 1 Detach Garage – 217.48.7
  
- Design and Access Statement
- Traffic Count – Existing and Proposed (update rec'd 31/05/2018)
- Coal Mining Report and Coal Mining Risk Assessment (rec'd 11/05/2018)
- Preliminary Ecological Appraisal (rec'd 08/07/2018)

In addition to these documents the applicant has provided further correspondence / responses to consultees on the following dates 01/05/2018, 02/05/2018, 08/05/2018, 24/05/2018, 25/05/2018, 31/05/2018, 01/06/2018, 12/06/2018, 15/06/2018, 18/06/2018 and 17/07/2018.

## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy Background**

5.1.1 The site the subject of this application is in a location identified in saved policy EVR2 of the Replacement Chesterfield Borough Local Plan (2006) as Open Countryside.

5.1.2 Having regard to the nature of the application proposals policies CS1, CS2, CS3, CS4, CS7, CS8, CS9, CS10, CS18 and CS20 of the Core Strategy (2013), policy EVR2 of the Local Plan (2006), the National Planning Policy Framework (updated 24 July 2018) and the Council's adopted Supplementary Planning Document 'Successful Places: Housing Layout and Design apply.

### 5.2 **Principle of Development**

5.2.1 The site is located within the Open Countryside area as per the Local Plan: Core Strategy policies map. Policy EVR2 (saved from the 2006 Local Plan) states:

**'Within the areas of open countryside and other open land planning permission will only be granted for new development which is necessary for the needs of agriculture and forestry or is related to recreation, tourism or other types of farm or rural diversification provided that:**

**(a) the location of the development outside the settlement framework is sustainable;**

**(b) the proposal would not detract from an area where the open character of the countryside is particularly vulnerable because of its prominence or narrowness (including the quality of the landscape and any nature conservation interest); and**

- (c) the scale, siting, design, materials and landscape treatment are such that the visual effect of the proposal is minimised and buildings are in keeping with their surroundings and reflect local character; and**
- (d) the proposal would not lead to undue disturbance by the creation of excessive noise or traffic or the attraction of large numbers of people.**
- (e) the proposed development including any activities outside the building would avoid unnecessary urbanisation and sprawl and not materially harm the rural landscape**

**Planning permission will be granted for the conversion or change of use of existing buildings in areas of open countryside provided that criteria (a) to (e) above are met and that the building is suitable for the intended use without the need for significant extension or major reconstruction. Proposals for conversion or change of use of rural buildings for housing purposes will only be acceptable if evidence is submitted to show that efforts have been made to secure re-use which furthers employment or if employment use would be inappropriate in that location or that building.**

**Planning permission will be granted for the redevelopment of existing buildings in areas of open countryside only for uses which are necessary for the needs of agriculture and forestry or are related to recreation, tourism or other types of farm or rural diversification provided that criteria (a) to (e) above are met and that:**

- (f) the proposed building does not have a greater impact on the open character of the countryside and the purpose of including land within it than the existing buildings and does not occupy a materially larger area of the site than the existing buildings.**

**Planning permission will be granted for the replacement of existing dwellings with new dwellings provided that criteria (c) and (f) above are met.'**

5.2.2 Clearly the development proposed is not necessary for the needs of agriculture and forestry and is not related to recreation, tourism or other types of farm or rural diversification. On this basis the development is clearly contrary to the provisions of policy EVR2. The development does not propose conversion or change of use of existing buildings and does not replacement any dwelling and therefore none of the subsequent criteria of policy EVR2 are met.

5.2.3 In reviewing the development plan in its entirety the provisions of the EVR2 designation are carried alongside policy CS10 of the Core Strategy which states:

**‘Planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or if annual monitoring shows that there is less than a 5-year supply of deliverable sites and where:**

- a) they accord with the strategy of ‘Concentration and Regeneration’ as set out in policy CS1 and the criteria set out in policy CS2; or
- b) a specific housing need can be demonstrated that can only
- c) be met within a particular location

**Specific sites for residential development will be identified within the Local Plan; Sites and Boundaries. Large residential developments will be subject to a masterplanned approach.’**

5.2.4 First and foremost it must be considered whether any parts of the site are considered to be previously developed land (PDL) / brownfield. In this case the NPPF is explicit in its definition of PDL as follows:

‘Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed

but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.'

- 5.2.5 Looking at the application site it is accepted that it does consist of some elements of PDL, however agricultural buildings (such as the dutch barn) and the fields / paddocks beyond do not fall within the definition and therefore the development as a whole is regarded as greenfield led development.
- 5.2.6 In the context of the policy background set out above, on the 24 July 2018 the revised National Planning Policy Framework was published which amended the way in which Local Planning Authorities are required to calculate their 5 year housing land supply.
- 5.2.7 Following the publication of the revised NPPF the Council updated its position on the 5 year housing land supply; based upon the new criteria set out. This was necessary to ensure that any decisions taken are considered against the most up to date guidance. A report was presented to Planning Committee on 06 August 2018, which was accepted by the committee and which confirmed the updated Annual Monitoring Report (AMR) (now published) that the Council are able to evidence a 5 year housing supply and therefore all relevant policies of the Core Strategy which relate to the supply of housing are considered to be 'up to date' for the purposes of decision taking.
- 5.2.8 The site is currently designated as Open Countryside under saved policy EVR2 of the 2006 Local Plan. This policy has been saved until the Local Plan; Sites and Boundaries SPD has been adopted. Under policy EVR2 residential development would not normally be permitted. Policy CS10 of the recently adopted Local Plan Core Strategy (adopted July 2013), also states that residential development on greenfield sites not in an adopted Local Plan will not normally be permitted whilst the Council is able to demonstrate a supply of deliverable housing sites sufficient for five years.
- 5.2.9 Other policies of the Local Plan continue to apply, the most relevant in this case being CS1 'Spatial Strategy', CS2 'Principles of Location of Development' and CS9 'Green Infrastructure and Biodiversity'. Indeed, all proposals for development must accord with CS1 and CS2 to be acceptable, regardless of whether it is a residential proposal and/or whether the council can demonstrate a



5 year supply of housing land. Furthermore other provisions of the revised NPPF which relate to the control of housing in rural areas are also of relevance.

5.2.10 Having regard to the provisions of policies CS1 the new dwellings would not be within walking distance of a centre (the nearest being Chesterfield Town Centre, approximately 1.5km away, with a significant proportion via unlit roads without pavements). The proposals are therefore also in conflict with the provisions of policy CS1. Furthermore the revised NPPF states:

*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*

*b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*

*c) the development would re-use redundant or disused buildings and enhance its immediate setting;*

*d) the development would involve the subdivision of an existing residential dwelling; or*

*e) the design is of exceptional quality, in that it:*

*- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

*- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

5.2.11 Having regard to the provisions of the NPPF above criteria a) to d) are not met. Furthermore giving consideration to the design, siting and layout of the scheme presented it is not considered that the proposals are of such a high architectural quality that are truly outstanding or innovative such that criteria e) is demonstrably met.

5.2.12 In summary, Policy CS10 states that “planning permission for housing-led greenfield development proposals on unallocated sites will only be permitted if allocated land has been exhausted or...there is less than a 5 year supply of deliverable sites”. As the council is currently able to demonstrate a five year supply of deliverable housing sites, a strict interpretation of policy CS10 would indicate that planning permission should not be granted.

Policy CS10 must also be read in combination with policy CS1, the spatial strategy, and the principle of development is not acceptable as the proposal fails to accord with the Policy CS1 which requires development to be within walking and cycling distance of centres.

5.2.13 Given the above, the principle of development is not acceptable and the application should be refused on this basis.

### 5.3 **Design and Appearance Considerations (inc. Heritage Impacts)**

5.3.1 The application site concerns the Chesterfield Cattery, which operates from a late 20<sup>th</sup> Century barn conversion which used to form part of Dobbin Clough Farm. The planning unit of the Chesterfield Cattery operation is separated from the older Dobbin Clough Farmhouse, which is a grade II listed building. As part of the listing both the attached barn to the main farmhouse and the barn currently in operation as the main cattery unit within the application site also feature in the formal listing.

5.3.2 Dobbin Clough Farm itself is a fairly typical historic farmstead with main farmhouse and ancillary buildings (e.g. former barns and stables). The Farmhouse forms a visual backdrop to the actual application site and the wider open countryside setting provides an attractive and bucolic backdrop.

5.3.3 Beyond the cluster of buildings which create the courtyard enclosure of Chesterfield Cattery (the barn, the cattery unit and the stables) there is a much larger modern dutch barn and also a surfaced ménage which are both surrounded by areas of hardstanding which connect to the main driveway access.

5.3.4 As part of the application consideration both the Council's **Conservation Officer (CO)** and the **Derby & Derbyshire DC Archaeologist (DCC Arch)** were consulted on the application proposals.

5.3.5 The DCC Arch confirmed that, *'the proposed development is on the site of an existing modern building (dutch barn) and yard area. The development location is also beyond the footprint of the original traditional farmstead on this site. For these reasons I would not consider that the proposed development would have any*

*archaeological impact and I would not wish to comment further on the scheme’.*

5.3.6 The CO commented, ‘*Pre-application discussion took place about potential residential development on this site in September 2016. The focus, according to drawings and discussion, was on a residential conversion of the existing cattery block and redevelopment of the existing stables as some form of residential terrace. My view was that subject to scale and materials, which respected or enhanced the setting of the historic buildings, this would be acceptable from a conservation perspective as it offered the opportunity for appropriate relatively small-scale re-development.*

*There was also an indicative proposal for large detached dwellings with double garages on and around where the existing hay storage structure is situated. Whilst the loss of the latter would not be an issue (it has no architectural merit) my feeling was that large detached dwellings might be incongruous in this setting, but much would depend on the design concept put forward.*

*The applicant appears to have abandoned the proposal to convert the existing Cattery bloc and redevelopment of the stable as a terrace. The proposal for the large detached dwellings was the least attractive element of what was being proposed in my view, given that the standard house types could potentially be slotted into a sensitive site with little consideration given to context.*

*The proposed house types do reflect rural vernacular and design, i.e. random facing stone; quoins, arched windows and garage doors (presumably to reflect carriage arches), though other elements are less successful: UPVC windows and riven appearance slate (I’m assuming this is artificial slate). There are also no drawings or descriptions of boundary treatments, landscaping and surfacing, which should be importance design considerations in this context. The Design & Access Statement is weak on this as well as heritage value (it does not acknowledge the listed building for instance).*

*Notwithstanding wider planning issues (such as whether this type of development in open countryside would be acceptable in principle) my view is that the house types put forward have responded to a certain extent to the setting of the listed and*

*historic buildings and wider open countryside, but a that thorough and creative attempt to blend the proposed housing in with the wider environment is lacking. In terms of NPPF policy, this would probably be classed as 'less than substantial harm', hence any harm should be weighed against the public benefits of the proposal (see paragraphs 134 & 135 of the NPPF). There is also the issue over additional vehicle movements created from any new housing. Crow Lane is essentially a narrow and windy county lane that has not been designed for modern traffic movements.'*

- 5.3.7 Notwithstanding the comments which have been made by the CO above, pre-application advice is offered without prejudice to the formal planning application process and the fact the applicant has chosen to progress a scheme differing slightly to what was previously discussed is of no detriment / consequence.
- 5.3.8 Clearly the scheme as submitted seeks to retain the existing barn conversion and the outbuilding to the west of the site and intends to recreate a courtyard enclosure with the siting of the 5 no. new dwellings centred around a shared courtyard, access and turning area. Having regard to the extent of the built site and associated development in situ (dutch barn / ménage) it is not considered that the 5 no. dwellings proposed extend substantially into land which is considered to contribute an amenity value to the setting of the nearby heritage asset. Furthermore it is considered that subject to prior approval, the chosen materials of construction and the finish to windows and doors could ensure that the development proposals are sympathetic to those of the listed building and barns associated therewith. It would be necessary to control the choice of boundary treatments where these face the open countryside to ensure that they are appropriate (stone boundary walls or hedgerows will be favoured) and furthermore permitted development rights for any future extensions to the dwellings could be restricted to control any further encroachment into the open countryside without appropriate control / approval.
- 5.3.9 Having regard to the provisions of policy CS18 and CS19 of the Core Strategy and the guidance contained in the adopted SPD 'Successful Place – Housing Layout and Design' specific to design and appearance considerations, if permission were to be given, the overall design of the development proposals are considered to be appropriate.

## 5.4 Neighbouring Impact / Amenity

- 5.4.1 Having regard to the proposed site layout details, there are only two existing neighbouring properties which could potentially be impacted upon by the development proposals. These are Dobbin Clough Farm and the residential property operating alongside the existing Chesterfield Cattery (owned by the applicant).



- 5.4.2 In respect of Dobbin Clough Farm (seen in the background of the LH photograph above) there is only one upper floor window opening facing the site of the application proposals. The boundary of Dobbin Clough Farm is set at least 26m away from the footprint of the closest proposed dwelling, with this window being sited well within the ground of Dobbin Clough itself. On this basis it is considered that, if permission were granted, there would be a sufficient degree of separation between this neighbour and the development proposals to ensure an appropriate level of amenity and / or privacy is maintained.
- 5.4.3 In respect of the dwelling which operates as Chesterfield Cattery (whose principle elevation is seen in the RH photograph above) this property would continue to front onto a new shared courtyard which is to be created between this property and the new dwellings. The principle elevation will predominantly face the frontage of Plots 2 and 3, which would be located south. Relative separation distances of 19m and 17m respectively will be attained between these plots and the existing dwelling; which is accepted is a little below a standard separation distance usually sought of 21m. Notwithstanding this, the SPD accepts that these distances can be relaxed where there are mitigating factors to take into account.

- 5.4.4 In this case one such factor would be that the separation distances will affect frontage windows facing onto a communal courtyard, where people would be able to stand in closer proximity to the actual windows and look into the properties anyway. On this basis it is argued that this development would not present a scenario any different to houses fronting an ordinary street or highway. Furthermore the applicant also owns the property potentially affected by this slight compromise.
- 5.4.5 In regard to the southerly orientation of the development proposals relative to both Dobbin Clough Farm and the Cattery barn conversion it will be necessary to condition the submission of levels details to fully appraise the relationship to be created between the new dwellings and the existing properties. Levels remain relatively consistent over the site (achieved by the expanse of the ménage which is already level) as such it is safe to assume the development proposals (at two storey) will not be adversely overbearing however further conditional cross section details will confirm the final built relationship.
- 5.4.6 Overall it is considered that, if permission were to be granted, the proposed site layout would achieve an acceptable level of neighbouring amenity, furthermore the relative siting of the new dwellings are such that they would create a linear pattern of development that will allow for adequate levels of amenity to be achieved between the new dwellings as well. In this regard the development proposals would be considered to comply with the requirements of policies CS2 and CS18 of the Core Strategy, the wider NPPF and the adopted SPD where they relate to neighbouring amenity considerations.

## 5.5 **Highways Issues**

- 5.5.1 In the late 1990's planning permission was granted for a new access to the site, which was provided when the site was operating as a riding school. Previously access had been shared with Dobbin Clough Farm. The formation of the new access, which is to the outside bend of Crow Lane, provided the greatest degree of visibility and provided a safer and wider access / egress to the site.



- 5.5.2 Alongside the application submission the applicant provided details of existing and proposed traffic movements to and from the site. This comparison was made between the site which currently operates a cattery and livery business with 1 no. residential property against the retention of the 1 no. residential property and 5 no. new dwellings. The data provided indicated that traffic movements at the site would drop from 55.80 / day to 36.36 / day. The applicant confirmed (31 May 2018) that the cattery and livery business are to cease if permission is granted and the development takes place.
- 5.5.3 The details of the application submission were reviewed by the **Local Highways Authority** (LHA) and a narrative of comments was provided in three separate responses between the applicant, the LHA and the LPA.
- 5.5.4 The conclusive advice given by the LHA advised that although the existing access does not conform to current design criteria, on the basis that the business uses would cease the traffic movements associated with 5 no. new dwellings would be commensurate to those of the sites current operation; and on this basis the LHA would not object to the proposals. The LHA indicated that they would seek to impose a series of conditions as follows:
1. No development shall take place including any works of demolition until a construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- parking of vehicles of site operatives and visitors
  - routes for construction traffic
  - hours of operation
  - method of prevention of debris being carried onto highway
  - pedestrian and cyclist protection
  - proposed temporary traffic restrictions
  - arrangements for turning vehicles
2. Prior to commencement of any works the applicant shall submit a revised parking and turning layout for the prior written approval of the Local Planning Authority, the revised layout shall comprise at least 3 parking spaces per unit, including the existing dwelling and proposed new-build and a turning facility suitable for service delivery vehicles. The approved scheme shall be fully implemented and be available for use prior to occupation of any dwelling and shall be maintain thereafter free from any impediment to its designated use.
  3. Prior to commencement of any works the applicant shall submit a scheme for the bin storage and bin dwell area. The storage area shall be clear of all access, parking and turning area and the bin dwell area shall be suitable for use on refuse collection days and shall be provided clear of the public highway, access, parking and turning areas. The approved scheme shall be fully implemented and be available for use prior to the occupation of any dwelling, and shall thereafter be maintained free from any impediment to its designated use.
  4. For avoidance of doubt the equine and cattery operations i.e livery, boarding, stables and menage shall cease on site.

5.5.5 Having regard to the comments of the LHA made above, it is accepted that the development proposed would result in a reduction of traffic movements to and from the site. As such, whilst the site access is below standard, a refusal of planning permission on this basis could not be substantiated. Whilst there is a network of public footpaths surrounding the site to which future occupiers would have access, it is clear that any future occupiers will be heavily reliant upon the use of a private car to access local



amenities. Particularly as there are no pedestrian footpaths located along Crow Lane. It is clear however that there is no opportunity for the applicant to propose any improvement to this circumstance as the highway margin is already restricted / limited to single carriageway.

- 5.5.6 Having regard to the provisions of policy CS20 of the Core Strategy the development proposals offer an appropriate level of off street parking per unit (each dwelling will have a double garage and driveway parking for a further 2 no. vehicles in advance) and thus criteria c) will be met. In addition through the imposition of planning condition (see section 5.6 below) it will be appropriate to require each dwelling to provide facilities for electric vehicle charging which would secure compliance with criteria e).
- 5.5.7 Given the limitations in scale and the relative site location, compliance with criteria b) and d) of policy CS20 could not be secured for the reasons given above and the fact there is no public transport serving Crow Lane.
- 5.5.8 Overall, looking solely at matters of highway safety, whilst it is accepted that (as set out in section 5.2 above) the principle of development is not acceptable given the sites isolated location (policy CS1); it is not considered that a refusal of planning permission could be justified on the basis of an adverse impact upon highway safety. By car the site can be accessed safely and sufficient parking on site is proposed.

## 5.6 **Flood Risk & Drainage**

- 5.6.1 Having regard to the provisions of policy CS7 (Managing the Water Cycle) of the Core Strategy the application submission was referred to **Yorkshire Water Services** (YWS) and the Council's **Design Services** (DS) team for comments in respect of drainage and flood risk.
- 5.6.2 The DS team commented, *'We would like to see detailed drainage proposals of how the developer intends to dispose of surface water. These should conform to CBC's Minimum Development Control Standards (copy attached). If soakaways are to be used, soil 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. Any connections to a public sewer will require approval from Yorkshire Water. Any connections to existing drainage on site may require Building Control approval.'*

- 5.6.3 YWS commented, *'The site is remote from the public sewerage network and so if the intention is to drain foul sewage to public sewer, this should be confirmed. Otherwise, if the site will be drained to a private system, YWS has no comment to make on the application.'*
- 5.6.4 In response to the comments made by both the DS team and by YWS the applicant confirmed that the development would comprise soakaway surface water connections and a private package treatment foul connection (likely to be separate from the current system serving the Cattery and Dobbin Clough Farm). On this basis the package treatment details to handle foul connections would need to be agreed through Building Regulations; however the surface water connections would need to be the subject of further review. Soil infiltration testing will need to be undertaken to demonstrate the ground conditions are appropriate for the scale and nature of the development being proposed to ensure that surface water discharge from the site is handled appropriately. If soil infiltration reveals a soakaway system is not appropriate the applicant will need to investigate whether an alternative connection can be secured to a local watercourse or as a last resort to a public sewer. An appropriate planning condition can be imposed on any permission issued to require these details to be agreed.

## 5.7 **Land Condition & Contamination / Noise / Air Quality**

- 5.7.1 Having regard to the characteristics of the site and what currently stands in situ land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy and the wider NPPF.
- 5.7.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission and made an initial request for the applicant to provide a Coal Mining Risk Assessment (CMRA) given the site fell within their designated referral area.
- 5.7.3 A CMRA was subsequently submitted by the applicant and the CA provided further comment on that assessment as follows:

*'The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; 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.*

*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.'*

5.7.4 Having regard to the comments detailed above from the CA these ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of land condition.

5.7.5 In respect of land condition the Council's **Environmental Health Officer** (EHO) was consulted on the application submission and had the following comments to make:

*'I have no objections to this application in principle. I do have the following recommendations:*

*Noise - To minimise noise impacts on the existing residential dwellings, I recommend that 'construction work' shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.*

*NB - The above condition takes into account current guidance issued by Derbyshire County Council, Highways Agency and all Utility companies.*

*Lighting - I understand that PPS 23 will be amended to include Appendix 3 for which lighting will become a material planning consideration. As such all lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties. The applicant shall submit details of all the lights they intend to use as part of this development and shall seek approval prior to the installation of lighting on site.*

*Contaminated Land - Should planning permission be granted for this proposal, I would strongly recommend that the developer ensure the site is 'suitable for use' by completion of:*

- a) a Phase 1/desk study*
- b) a Phase 2/intrusive site investigation*
- c) a Remediation Strategy (if necessary) and*
- d) a Validation report*

*All the reports a) to d) shall be submitted to the Council and approved in writing by the Local Planning Authority prior to the development commencing.*

*Air Quality - As the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017), I ask that infrastructure for electric charging points be installed as part of the build phase.'*

5.7.6 On the basis of the comments received above some of the conditions as suggested by the EHO are considered to be reasonable and necessary.

5.7.7 With regard to noise it is an ordinary planning practice to restrict construction hours to protect neighbouring amenity. It is not clear why the EHO has made reference to PPS23 in respect of lighting as this national policy document was replaced by the National Planning Policy Framework in March 2012 and was further updated in July 2018 but a requirement for the applicant to submit details of any proposed external lighting (over shared areas etc) would ensure that the impact of any lighting was localised so as

not to cause nuisance or glare to the nearby highway or other residents / biodiversity.

- 5.7.8 Under the provisions of policy CS8 of the Core Strategy a requirement by the applicant to undertake appropriate site investigation work will not only establish land condition (required by the CA) but also it will identify if its condition could also be adversely affected by contamination or gas migration.
- 5.7.9 Finally in respect of electric charging points, these are now proactively being conditioned as a requirement of all new dwellings given the current national direction and this approach is supported by the provisions of policy CS20 of the Core Strategy.

## 5.8 **Ecology & Landscaping**

- 5.8.1 The applications site is in a rural location, surrounded by woodland, pasture and golf course and therefore the development proposals are required to have regard to the provisions of policy CS9 of the Core Strategy and the wider NPPF.
- 5.8.2 Initially no ecology information accompanied the application however having received an initial comment from **Derbyshire Wildlife Trust** (DWT) the applicant had a Preliminary Ecological Appraisal Survey (Prelim EA) undertaken.
- 5.8.3 The PrelimEA was reviewed by DWT who provided the following comments / advice:

*'The survey work appears in accordance with best practice guidelines and it is considered that sufficient information has been provided to determine the planning application.*

*Three active swallow nests were recorded in the stable block and therefore this building must not be demolished during the nesting season (March-August inclusive). Mitigation will be required for the loss of this nesting opportunity. Swallow nest cups are a suitable option that could be incorporated on site, however it should be noted that swallow nest cups are designed for use inside the shelter of open-fronted buildings or structures and the feasibility of this should be considered at an early stage. A net gain for biodiversity is encouraged in the NPPF 2012 and supported by the Trust.*

*Should the council be minded to approve the application, we advise that the following conditions are attached:*

*Nesting Birds - No tree/shrub/hedgerow removal or building demolition shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.*

*Mitigation and Enhancement Plan - Prior to the commencement of development, a Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to ensure no net loss for biodiversity and aim for a net gain (NPPF 2012). This must adequately compensate for the loss of swallow nesting opportunities in the existing stable block (if demolition is required). Such approved measures should be implemented in full and maintained thereafter. Measures may include:*

- details of bird and bat boxes (positions/specification/numbers).*
- measures to maintain connectivity for hedgehogs between gardens.*
- ecologically beneficial landscaping.*
- sensitive lighting.'*

5.8.4 On the basis of the comments and considerations above it is considered that appropriate conditions could be imposed on any subsequent decision issued to secure biodiversity enhancements in accordance with Policy CS9 of the Core Strategy.

## 5.9 **Community Infrastructure Levy (CIL)**

5.9.1 Having regard to the nature of the application proposals the development comprises the creation of 5 no. new dwellings and the development is therefore CIL Liable.

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

		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Proposed Floorspace (GIA in Sq.m)</b>	<b>Less Existing (Demolition or change of use) (GIA in Sq.m)</b>	<b>Net Area (GIA in Sq.m)</b>	<b>CIL Rate</b>	<b>Index (permis sion)</b>	<b>Index (charging schedule)</b>	<b>CIL Charge</b>
Plot 1 – 245sqm	0	1231	£50 (Mediu m Zone)	317	288	£67,748
Plot 2 – 247sqm						
Plot 3 – 245sqm						
Plot 4 – 247sqm						
Plot 5 – 247sqm						
<b>Total = 1,231sqm</b>						

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

5.9.3 The calculation set out above may be subject to change if the CIL Officer agrees to discount the floorspace of any ancillary buildings subject to demolition to facilitate the development.

## 6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 24/04/2018; by advertisement placed in the local press on 03/05/2018; and by neighbour notification letters sent on 24/04/2018.

6.2 As a result of the applications publicity there has been one neighbour representation received as follows:

### **Dobbin Clough Farm**

My major concern would be that the proposed plans would set a harmful precedent for future building proposals to the south eastern paddock leading to gross over-development of the site.

Observations:

- Is the proposal within the Green Belt?
- A septic tank would be required, where would this be sited and where would its output go? The site is surrounded by public footpaths on 3 sides and buildings on the 4th.
- A soak away is proposed for drainage resulting from new buildings, hard standings, courtyard etc. Where would this be sited and how would its capacity be calculated, if it overflowed where would its output go? Footpaths in the south western corner are already subject to flooding. How would the surface water from the front paved areas of the new houses be directed to the soak away and not allowed to flow in a northerly direction to the adjoining property. Are there guidelines that cover this scenario?
- Would provisions be made to ensure that the above 2 outputs would not go in the direction of neighbouring properties.
- Electricity and water supplies to existing properties pass under the proposed site for the new houses, how would this be preserved. A new water supply would be needed for the proposed development as can be witnessed by occasional pressure drops with the existing setup. Is the electricity supply sufficient to cater for the additional houses?
- The new site sits above the 'current dwelling' which appears from the drawings that it would be dwarfed by the new houses. The site slopes from south to north.
- Grey(?) slates are proposed to roof the new houses, this represents a sharp contrast to the historic surrounding buildings all tiled in orange/red. The stone walls are a good fit.
- Considering that the new houses proposed sit within the curtilage of Grade 2 listed buildings there is a sharp contrast between the size of the windows. The slates and windows



are of a very modern appearance and do not appear to blend in with the existing buildings.

- The proposal allows for the demolition of the stable block; however, this has been the nesting site for swallows returning from Africa for at least the last 30+ years. Shame as I suspect they are not a protected species.
- The application does not indicate the plans for the existing 1 bedroom flat and the barn marked as cattery, this makes it difficult to estimate the full impact of the number of car journeys that can be made in and out of the new development. If the cattery business continues then in total there would be a lot more traffic than at present.
- Crow Lane is very busy these days particularly at peak morning and afternoon periods. The existing traffic from the cattery is mainly during off peak times. The new proposals represent a clearly different scenario, 4 and 5 bedroom houses would fit younger working families with children of different ages. There may, therefore, be more than 2 cars per household all leaving/returning for work, college or school etc. at peak times. In addition, there may well be multiple delivery vehicles. This will exasperate an already busy traffic situation. In addition, further peak traffic journeys could result from any future developments for the 2 existing buildings. There are almost certainly likely to be more visitor car journeys to the new houses. Reducing the number of houses would alleviate the problem to some extent.
- The plan allows for an additional car parking for 10 but gives no indication of location. Can this not be adjacent to the boundary with Dobbin Clough Farm to ensure surface water is directed to the proposed soak away and that noise is kept to a minimum.
- At present vehicle access is restricted to the eastern side located around the dutch barn. The proposal would effectively result in a cul-de-sac running from the east to the west boundary creating a disturbance to the adjoining property. It is estimated the cattery (30 pens) would generate at least 120 in and out traffic movements a week (assuming the 2nd cattery under the dutch barn is not replaced). It would be beneficial for vehicle access/garaging to be similarly restricted to the east side of the development particularly for noise and pollution emissions and be more eco friendly for both new and existing properties.

- There are certain covenants in the deeds of the property which may have an impact on the proposals e.g. causing a nuisance or annoyance to surrounding neighbours and may impact on property development. Can building work have a definite time frame? An example is the development at Hady Hill (opposite Hady Lane) which seems to have been going on for a very long time and would result in high levels of noise and dust over a considerable period. Drilling for potential mine shafts/gas can continue for a very long extended period as witnessed recently in Blacksmith Lane, causing a definite nuisance.
- It may be beneficial to the potential owner of plot 1 to check the western boundary location. In 1985 the council stated that the boundary fence was about 2 metres to far out in a westerly direction and offered to sell the piece of land.
- Dobbin Clough Farm is essentially a 2 storey building with high ceilings and not as described by the applicants.
- In order to make a judgement on the plans 3 things need to be clarified. To make an accurate assessment of traffic flows in and out of Crow Lane, details of the future plans for the 'existing dwelling' and 'cattery' are required. The location of the septic tank and 10 space carpark are not shown but are critical in terms of the impact on neighbouring properties. If either were to be placed in the parcel of land to the west of the 'cattery' it would be very detrimental to the neighbouring property.

You will note that I mention surface water a few times. When the existing driveway was installed gaps were left in the retaining blocks allowing surface water to flow into my garden. I have since been advised that this is not good practice. The plot as a whole slopes south to north.

In my Observations I mentioned the deeds to the property for which planning is being applied for. I have attached the Schedule of restrictive covenants applied by Chesterfield Council in 1981. This could be interpreted to mean restrictions apply to property development which in addition would certainly cause a nuisance and annoyance over an extended period of time to occupiers of neighbouring land.

6.3

As a result of reviewing the representation made above the applicant submitted a number of rebuttal emails and photographs dated 24/05/2018, 26/05/2018 and 27/05/2018. Notwithstanding these comments the Officer Response to the representation made is as follows:

- ***The site is not located on Green Belt; it is located in the open countryside.***
- ***Issues in respect of drainage are dealt with in section 5.6 above. Details of the suitability for soakaways will be handed through the imposition of an appropriate planning condition. Any septic tank / package treatment plant installation will be required to meet current Building Regulations and no dwelling will be permitted to be occupied until such solutions are operational.***
- ***Matters concerning electricity and water supply are Building Control matters, which are not dealt with by Planning. A separate application for building regulations approval will need to be sought.***
- ***Design and neighbouring issues have been considered in section 5.3 and 5.4 of the report above.***
- ***Matters concerning parking, access and highway safety have been considered in section 5.5 of the report above.***
- ***The presence and / or otherwise of restrictive covenants are not a material consideration. Nor is boundary position / ownership which is a civil matter.***

7.0

### **HUMAN RIGHTS ACT 1998**

7.1

Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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 applicant has the right to appeal the final decision.

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

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the National Planning Policy Framework (NPPF) – 24 July 2018.

8.2 The proposed development conflicts with principles of the NPPF and the relevant Development Plan policies for the reasons given in the report above.

8.3 The conflict with Development Plan policies has led the LPA to conclude the development is not fully regarded as meeting the definitions of "sustainable development" having regard to local character and amenity and a presumption on the LPA to seek to approve the application is not considered to apply.

9.0 **CONCLUSION**

9.1 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'. In this context the application has been considered against all up to date development plan policies and the wider national planning policy framework as detailed in the report above.

9.2 The site the subject of the application is on land allocated under policy EVR2 of the 2006 Local Plan (a saved designation of the Chesterfield Local Plan: Core Strategy 2011 – 2031) as open countryside. Policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that greenfield led housing

development will not be accepted where the Local Planning Authority is able to demonstrate a 5 year housing land supply.

- 9.3 On the basis that the Local Planning Authority is currently able to demonstrate a 5 year housing land supply the development would be contrary to the provisions of policy CS10 and EVR2 of the Chesterfield Local Plan: Core Strategy 2011 – 2031, the wider provisions of the National Planning Policy Framework and it is therefore unacceptable.
- 9.4 The site is situated in a rural location and having regard to its specific characteristics, under the provisions of Policy CS1 the new dwellings would not be within walking distance of a centre (the nearest being Chesterfield Town Centre, approximately 1.5km away, with a significant proportion via unlit roads without pavements). The proposals are therefore also in conflict with the provisions of policy CS1.
- 9.5 Whilst it is accepted that in all other respects the applicant has proactively sought to address all other materials considerations and technical issues arising throughout the application process, there are no special or exceptional circumstances demonstrated which would allow greater weight to be weighed in favour of an approval to justify setting aside the principle policy objections set out above.

## 10.0 **RECOMMENDATION**

- 10.1 It is therefore recommended that the application be **REFUSED** for the following reasons:

01. The site the subject of the application is on land allocated under policy EVR2 of the 2006 Local Plan (a saved designation of the Chesterfield Local Plan: Core Strategy 2011 – 2031) as open countryside. Policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that greenfield led housing development will not be accepted where the Local Planning Authority is able to demonstrate a 5 year housing land supply.  
On the basis that the Local Planning Authority is currently able to demonstrate a 5 year housing land supply the development would be contrary to the provisions of policy

CS10 and EVR2 and the wider provisions of the National Planning Policy Framework 2018.

02. The site is situated in a rural location and having regard to its specific characteristics, under the provisions of Policy CS1, the new dwellings would not be within walking distance of a centre (the nearest being Chesterfield Town Centre, approximately 1.5km away, with a significant proportion via unlit roads without pavements). On this basis the proposals fail to meet the provisions of Policy CS1 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider provisions of the 2018 National Planning Policy Framework.