

Case Officer: Chris Wright
Tel. No: (01246) 345787

File No: CHE/18/00307/FUL
Plot No: 2/415, 792

ITEM 5

DEMOLITION OF EXISTING DWELLING AND ERECTION OF A REPLACEMENT DWELLING AT BROOMHILL FARM, BROOMHILL ROAD, OLD WHITTINGTON, S41 9EA

Local Plan: Green Belt
Ward: Old Whittington

1.0 **CONSULTATIONS**

DCC Highways	No objection
Design Services	No objection
Planning Policy	No objection
Coal Authority	Material Consideration – no objection
Ward Members	No comments received
Site Notice / Neighbours	Two letters of representation received

2.0 **THE SITE**

2.1 The application site is the central section of land within Broomhill Farm, including access off Broomhill Road. The overall site is positioned to the north of Broomhill Road in Old Whittington and which is surrounded by a care home to the west, a large turn of the century housing area to the south and open countryside to the north and east. There are numerous buildings on the overall site, with 3 separate owners of separate businesses including a pet sanctuary, two catteries, two private dog kennels, a stray dog kennels, a country store/shop, some agricultural buildings, a gun shop and three dwellings. The three dwellings include the original farmhouse, a residential unit sited above JJ's Cattery and a dwelling conversion that was given planning permission on condition that it was directly related to Broomhill Farm Kennels. This dwelling conversion was carried out at the time however this unit has now ceased to be a dwelling as the accommodation is currently used as a shop/café (former use). Furthermore this part of the site has been split from the overall application site.

2.2 The application site includes the shared access road, various outbuildings and the existing farmhouse which is the proposed site of the replacement house all within the red line and within the blue line one of the private dog kennels and some of the additional open land surrounding the proposed dwelling site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/17/00839/OUT – Outline application for planning permission for one dwelling tied to the existing boarding kennels – Refused – 15/03/18
Reason for refusal - The development proposed does not meet or satisfy any of the 'exception' criteria as set out in paragraph 89 of the National Planning Policy Framework and there are no very special circumstances which can be accepted which outweigh the harm to the green belt area and the proposal is therefore considered to be unacceptable. The development by virtue of its siting would adversely impact upon the openness of the Green Belt within an area of the site which has previously remained open and undeveloped. It is considered that the development proposals will introduce a pattern of built form which is uncharacteristic of the area and therefore imposes an adverse degree of visual harm upon the openness of the Green Belt contrary to the provisions of Policy CS1 and criteria (a) and (e) of Policy CS9 of the Chesterfield Local Plan: Core Strategy 2011 - 2031 and the requirements of the National Planning Policy Framework.
- 3.2 CHE/12/00579/FUL - Conversion of an Existing Animal Charity Shop and Bedroom to a Kennel Operator Dwelling tied to existing Kennel Business – Conditional Permission – 10/12/13. This dwelling was related to Mrs Joan Bentley, the previous owner of Broomhill Farm Kennels, and a condition was included to ensure the use of this dwelling was tied to the kennels and the animal sanctuary – see para 2.1.
- 3.3 CHE/0201/0072 - Alterations to cattery building to create cottage and office and conversion of office to cat pens at Broomhill Farm. GRANTED 11.4.2001.
- 3.4 CHE/394/0162 - Change of use of agricultural building to additional cat pens. GRANTED 15.06.1994

- 3.5 CHE/690/457 - Change of use from cow sheds to cattery at Broomhill Farm. GRANTED subject to conditions requiring formalised parking and turning and improvements to visibility where the site
- 3.6 There are numerous historical applications relating to the site which were refused; some being dismissed at appeal.
- 3.7 It is accepted that there are buildings on the site which are unauthorised but which may have become immune from any enforcement action because they have existed for more than 4 years.

4.0 **THE PROPOSAL**

- 4.1 The application submitted seeks to demolish the existing dwelling and to build a new replacement dwelling on the same footprint, albeit with two small porch extensions to the front and rear and an increase in the roof height by 1m on the northern section of the building. To facilitate the 1st floor bedrooms there would also be several dormer and velux windows in the roof.
- 4.2 The existing building is built out of a mixture of natural stone, brick and render. The proposed dwelling will be brick built to the front and right hand side elevation, with stone porches, stone lintels and a rendered rear.
- 4.3 The proposal is required because high levels of radon gas have been discovered, and due to the age of the property a retrofitting solution it is not an easy or cheap option.



5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

5.1.1 The site the subject of the application is located on the edge of the built settlement of Old Whittington north of Broomhill Road on land allocated as Green Belt. Having regard to the nature of the application proposals policies CS1, CS2, CS9, CS10 and CS18 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Council's Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.1.2 Policy CS1 (Spatial Strategy) states that the Green Belt will be maintained and enhanced.

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

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

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

5.1.4 Policy CS9 (Green Infrastructure and Biodiversity) states that development proposals should not harm the character or function of the Green Belt, should conserve or enhance the local distinctiveness and character of the landscape, and should protect and increase tree cover in suitable locations.

In addition to the above, paragraphs 143 - 145 of the 2018 NPPF state:

143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

- 5.1.5 Policy CS10 (Flexibility in Delivery of Housing) states that 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 be met within a particular location.
- 5.1.6 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.
- 5.1.7 In addition to the above, the NPPF places emphasis on the importance of good design stating:
‘In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in the area, so long as they fit in with the overall form and layout of their surroundings.’ (para131)
“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents” (para 130).
- 5.1.8 It is also the case that in July 2013 the Council adopted ‘Successful Places’ which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.

5.2 **Principle of Development**

- 5.2.1 This proposal relates to a replacement dwelling in the Green Belt and in this respect the main policy considerations are:
- Core Strategy - Policy CS9 (Green infrastructure and Biodiversity)
 - Core Strategy – Policy CS18 (Design) and
 - National Planning Policy Framework

- 5.2.2 From a policy perspective, the main issue is whether the proposal can meet the criteria relating to the construction of new buildings in the green belt, as set out in paragraph 143 - 145 of the NPPF. This states that "A local planning authority should regard the construction of new buildings as inappropriate in Green Belt however exceptions to this include the replacement of a building provided that it is in the same use and not materially larger than the one it replaces.
- 5.2.3 The NPPF states that limited infilling of previously developed sites, where the development would not have a greater impact on the openness of the Green Belt can be accepted.
- 5.2.4 The majority of the proposal will be positioned on the footprint of the existing dwelling, albeit with two small extension to the front and rear, as well as lifting the roof of the northern section of the building by 1m. The additional footprint area amounts to approximately 12 square metres. It is within the built settlement of the buildings within the farm, and from the vast majority of locations the change in the size of the dwelling will be unnoticeable. The current dwelling forms part of a cluster of buildings. Given the extent, layout and size of the surrounding buildings, and the modest increase in footprint and mass, it is considered that the proposed dwelling will not be materially larger than the one it replaces. The proposal is for residential purposes, therefore has the same use as the original house. The increase in height by 1 metre on a part of the building and over the same footprint area is similarly not considered to be significant within the sites specific location and context.
- 5.2.5 The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Therefore, its openness is an essential characteristic of the Green Belt. The replacement of the existing dwelling with the proposed dwelling is not considered to be contrary to this policy objective.
- 5.2.6 In terms of policy CS9, although it is accepted that the proposal would have some visual impact it would not harm the character or function of the Green Belt in any significant manner. Additionally the NPPF highlights that the planning system should aim to achieve 'net gains for nature'. Given the site's proximity to open countryside there are opportunities with this site to incorporate

elements into the design to encourage bird and/or bat roosting, for example.

5.2.7 Additionally, policy CS7 requires the use of Sustainable Drainage techniques however no information is provided in the application. Details need to be submitted.

5.3 **Design & Appearance (inc. Neighbouring Impact / Amenity)**

5.3.1 The application seeks to re-build an existing dwelling on site. It would be designed in an almost identical manner to the existing dwelling, with similar materials although used in different proportions. The front of the existing dwelling is predominantly natural stone with brick additions, the proposed dwelling would use the materials the other way round, with reclaimed brick the predominant material and natural stone used on the porch. It is also proposed to have stone lintels above and below the windows. Several dormer roofs will be placed in the roof; these are small dormers and are considered to be acceptable.

5.3.2 The proposal is set within a collection of buildings within the farm and is not significant on streetscene terms. In visual terms the proposal is acceptable. In residential amenity terms the proposal is not considered to impact upon other residents and the proposal is acceptable in this regard.

5.4 **Highways Issues**

5.4.1 The Highway Authority has confirmed that they have no objection to the proposal. As the proposal has adequate parking spaces to the front of the site (over 4 spaces) it is considered to have suitable parking facilities and is acceptable in terms of the provisions of policies CS2, CS18 and CS20 of the Core Strategy.

5.5 **Flood Risk & Drainage**

5.5.1 The application submission is not within a high risk flood zone. In terms of drainage detail will be required however it is considered that this can be dealt with by condition.

5.6 Land Condition / Contamination

5.6.1 The site the subject of the application comprises land that was developed many years ago when the existing dwelling was built. The officer received verbal comments from the Environmental Services team stating that there is no need for a land contamination condition having regard to policy CS8 of the Core Strategy.

5.6.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission (which included a Coal Mining Risk Assessment) and they provided the following response:

“Having reviewed the available coal mining and geological information the Coal Mining Risk Assessment concludes that there is a potential risk posed to the development by past coal mining activity. The report therefore recommends that intrusive site investigations are carried out in order to establish if coal mining legacy issues are present on the site. In the event that shallow mine workings are encountered, The Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.

The intrusive site investigations should be designed by a competent person and should ensure that they are adequate to properly assess the ground conditions on the site in order to establish the exaction situation in respect of coal mining legacy and the potential risks posed to the development by past coal mining activity. The nature and extent of the intrusive site investigations should be agreed with the Permitting Section of the Coal Authority as part of the permissions process. The findings of the intrusive site investigations should inform any remedial measures which may be required.”

The Coal Authority Recommendation to the LPA

5.6.3 *“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.”*

5.6.4 Having regard to the comments detailed above from the CA appropriate conditions can be imposed to this effect, if permission is granted, to ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of land condition.

5.7 **Community Infrastructure Levy (CIL)**

5.7.1 Having regards to the nature of the application proposals the development comprises the creation of new residential accommodation and the development is therefore CIL Liable. The CIL Regulations state that any building / existing floor space which has not been occupied with a legitimate planning use for a period of 6 months within the last 3 years becomes liable for CIL when a new planning permission is granted and implemented. In this case the building has been occupied in the last 3 years and therefore floor space can be discounted however the scheme is CIL liable.

5.7.2 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:

		A	B	C	D	E
Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
372	265	107	£50 (Med Zone)	317	288	£5,888

6.0 REPRESENTATIONS

6.1 The application has been publicised by site notice and by neighbour notification letters.

6.2 Two letters of representation have been received as follows:

175 Broomhill Road – The respondent considers that the proposal will be much bigger than the existing dwelling. It could add to the continued overdevelopment of the site and lead to increased traffic problems in the area.

179 Broomhill Road - Objected to the proposal in regards to its impact upon highway safety and the continued encroachment of buildings upon the site. It would also be considerably larger than the existing dwelling. The proposal will also lead to increased deliveries of building materials to the site.

6.3 ***Officer Response: Noted – Consideration of these points is included in the report above.***

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 Whilst, in the opinion of the objectors, 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 and 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 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 not considered to be materially larger than the existing dwelling and is acceptable as an exception under paragraph 145 of the 2018 NPPF. As such the proposal is acceptable in terms of the NPPF and Policy CS1 and CS9 of the Chesterfield Local Plan: Core Strategy 2011-31.

10.0 **RECOMMENDATION**

10.1 That a CIL Liability Notice be issued in line with the paragraph 5.7 above

10.2

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:

- Proposed Floor plans (Drawing 2)
- Proposed Elevations (Drawing 1)
- Existing Elevations (Drawing 1)
- Existing Floorplan (Drawing 2)
- Site Location Plan
- Block Plan
- Email regarding materials sent on 05/06/18

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

Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.

04. An Electric Vehicle Charging Point shall be installed as part of the build phase and which shall be retained available for use for the life of the development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

- 05 No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by The Local Planning Authority. This shall include percolation tests if soakaways are proposed.

Reason – To prevent the increased risk of flooding and to ensure the site benefits from adequate and sustainable drainage.

Notes

- 01 If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further planning application.