

Appendix A

Appeal by DJ Atkinson Construction Ltd

Demolition of buildings and construction of 2 dwellings with associated infrastructure at Proctors Nursery, adjacent 756 Chatsworth Road, Chesterfield.

CHE/17/00725/FUL

2/1497

1. Planning permission was refused against the advice of officers on 30th January 2018 for demolition of buildings and construction of 2 dwellings with associated infrastructure at Proctors Nursery, adjacent 756 Chatsworth Road for the following reasons:

In the opinion of the local planning authority, the absence of any very special circumstances by which inappropriate development can be accepted in the green belt area, will result in a development which is contrary to the principles relating to the Green Belt area as contained within policies CS1 and CS9 of the Chesterfield Borough Core Strategy 2011-31 and the National Planning Policy Framework chapter 9.

2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
3. The main issues are whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies; the effect of the proposal on the openness of the Green Belt and the purposes of including land within it and if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development in Green Belt

4. The appeal site is a former plant nursery containing a number of disused buildings and the remains of former greenhouses and tunnels. The nursery ceased operations some years ago and since then the site has become overgrown and reached a stage of considerable re-naturalisation, with heavy plant

growth throughout. The site is adjacent to residential development to three sides on Chatsworth Road and Lutyens Court. To the south, the site adjoins open countryside.

5. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 indicates that construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions. Although the site contains buildings, their use is in connection with the former horticultural use of the site. Horticulture falls within the definition of agriculture, which is excluded from the definition of previously developed land in the Glossary to the Framework at Annex 2. The appeal site does not therefore constitute previously developed land and exception g) at Paragraph 145 of the Framework does not apply to the proposal.
6. Given this, the main parties agreed that the proposal would represent inappropriate development in the Green Belt, as defined in the Framework. As inappropriate development is harmful to the Green Belt, the proposal would thus conflict with Policy CS1 of the Local Plan: Core Strategy 2011-2031 (Adopted 24 July 2013)(the CS), which seeks to maintain and enhance the existing Green Belt, and Policy CS9 of the CS, which requires development not to harm the character or function of the Green Belt.

Openness of the Green Belt and Green Belt purposes

7. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The existing site is heavily overgrown and includes tall lines of trees towards the extremities of the site. As a result, views into the site from longer vantage points within the surrounding countryside and Green Belt are limited. There are views into the site possible from 760 and 760b Chatsworth Drive, and from in front of these properties at the top of the shared access lane by the site entrance. 4 and 5 Lutyens Court also have sight of the existing buildings.

8. In spatial terms, the proposed dwellings would have a smaller cumulative volume than the existing buildings, although a number of the buildings along the northern side of the site are either partially or wholly subsumed by overgrowth, and their volume is not readily apparent in views into the site. The dwellings would be concentrated between the footprints of the existing structures and would not extend the built form into parts of the site where buildings have not previously stood. The dwellings would also generally align with the southern extent of surrounding development. The dwellings would, however, be taller than the existing structures, and individually they would be more substantial in scale and prominence than the existing buildings, which generally appear as simple, functional structures.
9. Although an unintended consequence of the closure of the plant nursery, the re-naturalisation of the site has had a positive effect in reducing the visual and spatial prominence of the remaining buildings. Whilst the removal of the existing buildings would improve openness, they would be replaced by the dwellings and extensive areas of planned hard and soft landscaping. As a result, the site would take on a more urbanised appearance in contrast to its increasingly natural state, and visibility into the site would be increased as a result of the development, with the dwellings highly prominent.
10. The proposed reduction in number and overall volume of buildings would have a positive effect on openness, however, the scale and increased visibility of the dwellings, coupled with the introduction of a more urban character to the large external areas through hard and soft landscaping, would have greater negative effects on openness in both visual and spatial terms.
11. Given clear views of the site are limited to a small number of nearby vantage points, the effects of the development on the openness of the Green Belt in both spatial and visual terms would be localised. The inspector found therefore that, overall, the proposal would result in limited harm to the visual and spatial dimension of the openness of the Green Belt. Given the proposed use would amount to inappropriate development within the Green Belt, on a site which is not regarded as previously developed land, the proposal would result in an

unacceptable encroachment into the open countryside and therefore would conflict with the related purpose of including land within the Green Belt.

Other Considerations

12. The appellant points to compliance with the many of the requirements of CS Policy CS2, which sets principles for the location of development. Whilst the proposal would not conflict with several of these requirements, it would conflict with criterion a) in particular, given I find conflict with Policy CS1. The appellant states that the proposal would deliver regeneration benefits to the area, central to this being the removal of the existing buildings, which would otherwise 'continue to degrade and be left to ruin'. I accept that the existing buildings are in a neglected state. However, I find that the negative visual impact of the buildings is reduced to some extent by the re-naturalised state of the site, with some buildings heavily enclosed by tall trees and bushes. The site is unlikely therefore to get significantly worse than at present. There is also no substantive evidence before me to indicate that the buildings could not be demolished without the need for planning permission, that they could not be re-used for horticulture, or that the proposed development is the only means by which to regenerate the site. The benefit of their removal therefore attracts limited weight.
13. The proposed dwellings are contemporary in design, including green roofs and use of high quality materials which complement nearby dwellings. In terms of layout and density, the dwellings would relate reasonably well to their surroundings, and I accept that they would have a positive visual impact compared to the existing buildings. However, given the limited extent of views into the site, this positive impact would be localised, and therefore would carry moderate weight in favour of the proposal.
14. The proposal includes various measures to enhance biodiversity, including through the proposed landscaping scheme. Whilst these are benefits, they are necessary, at least in part, to offset the impact of the proposed development on existing biodiversity, which includes the identified presence of protected species, namely bats. The appellant's Ecological Survey includes various recommendations, and the

Landscape Management Plan includes commitments to manage the landscape within the appellant's wider landholding. The inspector observed this area to be largely in a natural state already. The measures proposed relate mainly to the retention and periodic inspection of the area, and thus appear to me concerned more with maintenance rather than enhancement. Given the site's resilience in re-naturalising over recent years, The inspector was not persuaded that the measures proposed would necessarily result in substantive enhancements to biodiversity taking into account the mitigation required. However, the inspector found that, overall, the measures proposed in combination would have a positive effect in respect of biodiversity, which would carry moderate weight in favour of the proposal.

15. The dwellings would provide a very limited addition to the Council's housing stock, although in view of the Council's ability to demonstrate a five year housing supply, which is not challenged by the appellant, this benefit would attract very limited weight. There would also be economic benefits from construction, and subsequently through use of local services by prospective residents, albeit these would be very limited given the small scale of the development.
16. The inspector acknowledged that the location of the dwellings would be relatively accessible by public transport, with bus stops directly by the entrance on Chatsworth Road, which would reduce reliance on the private car to some degree. There are also various sustainability measures proposed as part of the design, including the living roofs. These environmental benefits would, however, be limited when factored against the overall environmental cost of site clearance, demolition and construction of the dwellings, and reliance by future occupants on the private car which would still exist.
17. Interested parties have raised strong concerns over the standard of the existing access lane leading from Chatsworth Road, and potential issues arising from the addition of two further dwellings. I note, however, that a number of these issues, such as refuse vehicles being unable to access the lane, already exist. The Council concluded that two dwellings would not represent a material increase in vehicular

movements compared to the past nursery use. However, whilst the inspector accepted that this use could resume at any time, its recent history suggests this is very unlikely to occur. Nevertheless, the Highway Authority raised no objection to the proposal, and from all the inspector had seen and read, he saw no reason to reach a different conclusion. This matter would, however, be a neutral factor weighing neither for nor against the proposal. The Council did not refuse the application with respect to the effect on living conditions of neighbouring residents. The inspector had regard to the comments of interested parties, but given the evidence before him, he was not led to a finding of harm in these respects. This would also be a neutral factor.

Green Belt Balance

18. The proposal would constitute inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there are adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The inspector gave only limited or moderate weight to each of the considerations in favour of the proposal and concluded that, taken together, they do not clearly outweigh the harm to the Green Belt. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.