

ITEM 1

Case Officer: Chris Wright
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File No: CHE/19/00216/OUT
Plot No: 2/949

Outline application with all matters reserved for the erection of a new dwellinghouse over 2 floors at 33 Brooke Drive, Brimington, Chesterfield

Ward Brimington South
Local Plan Unallocated

1.0 **CONSULTATIONS**

Ward Members	No comments
Brimington Parish Council	No comments
Environmental Services	No comments received. .
Design Services	No objection.
Yorkshire Water	No comments received.
DCC Highways	No objections subject to condition.
Lead Local Flood Authority	No comment.
Neighbours/Site Notice	No comments received.

2.0 **THE SITE**

2.1 This application concerns an area of land to the west of Brooke Drive comprising of No 33. The application site is the land to the south side of no.33 Brooke Drive upon which there is a single garage and parking for 5 vehicles. The existing house is a two storey detached pitched roof dwelling with the gable end facing the road and which has a traditional front garden area.

2.2 The predominant housing type on the street is a mix of two storey semi-detached houses, semi-detached dormer bungalows and detached two storey houses.

2.3 The site is within a residential area and is surrounded by housing on all sides.

3.0 **RELEVANT SITE HISTORY**

3.1 No relevant applications

4.0 **THE PROPOSAL**

4.1 The proposal is an outline planning application with all matters reserved for one dwelling on the land between 33 and 31 Brooke Drive. An indicative drawing has been included showing a 3 bedroom dwelling of a similar design, size and scale to the existing dwelling, but as all matters are reserved for later consideration minimal weight can be given to this drawing. It is considered that two car parking spaces could be provided to the front of both the proposed and existing dwellings. The proposal also includes reasonable sized rear gardens for both dwellings.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The below comments were provided by the Council's Forward Planning Team:

5.1.2 *As the application site is currently residential garden (albeit with a structure on the site), it does not meet the definition of Previously Developed Land set out in Annex 2 of the NPPF, which specifically excludes residential gardens. The site must therefore be considered as a greenfield site.*

Policies CS1 and CS10 are therefore the key policies in determining the principle of development.

Policies CS1 and CS2 encourage new development to be concentrated within walking distance of centres and make use of previously developed land. Neither the adopted Local

Plan nor the emerging Local Plan identifies a centre within walking distance of the site. Neither the adopted nor emerging North East Derbyshire Local Plans identify any form of centre within walking distance of the site. There is a small local convenience store within walking distance of the site and a Nursery and Infant's School. However the 'normal area' junior school for the site would be Brimington Junior School approximately 2.5km away (Calow CofE primary school is 1.2km away but not the normal area's school). There are a range of other facilities in nearby Calow, including a post office, and a regular bus service on Manor Road (service 80, half hourly at peak times).

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 if annual monitoring shows that there is less than a 5-year supply of deliverable sites". Allocated land has not been exhausted and the council's latest five year housing supply statement (May 2019) demonstrates that there is a five year supply of deliverable sites.

A strict interpretation of policy CS10 would indicate that planning permission should not be granted for the development of residential gardens or small scale greenfield urban infill plots. However, whilst technically a greenfield site, the application site is within the urban area, and already contains a structure that would be replaced.

However the NPPF is also clear that "Local planning authorities should approach decisions on proposed development in a positive and creative way." (NPPF para 38). Applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise (para 47).

The issue of CS1 was considered in the appeal on land at Westmoor Lane, which is also in Brimington Common (APP/A1015/W/15/3133464). In this the Inspector concluded that "whilst the spatial strategy of the CS set out within Policy CS1 is to concentrate development within walking and cycling distance of centres, this does not mean that the location of all new development, irrespective of scale, such

as the construction of three dwellings is required to be restricted within those parameters”.

Given the small scale of the proposed development (a single dwelling), the fact that it is within the urban area and does have access to a range of facilities; it is unlikely that a development of this scale would result in an unsustainable pattern of development.

In this case there is an argument to allow some flexibility in the interpretation of policies CS1 and CS10, although this would most likely make the application a departure from the development plan if it was to be granted planning permission.

If permitted, the site would be liable for CIL at the medium zone rate of £50 (subject to index linking and any exemptions, for example for existing floorspace, or custom and self-build).

If permission is granted, conditions should be applied requiring provision of suitable provision to charge and electric vehicle, and the provision of measures to secure a net gain in biodiversity, including the inclusion of bird and/or bat roosting opportunities on any building.

- 5.1.3 The policy position above is accepted however on balance the fact that the proposal is a single dwelling between existing dwellings on a street of similar dwellings would not represent inappropriate development and should be accepted.

6.0 **Design and Appearance (Including Neighbour Effect)**

- 6.1 The indicative drawing is for 1 dwelling that is of a similar layout and scale to other dwellings in the area, but no reserved matters have been included in terms of the design and appearance of the scheme. Any reserved matters proposal would be required to not lead to a significantly negative impact towards surrounding residents, in terms of overlooking, overshadowing and massing and to be in-keeping in terms of design and visual amenity.

6.2 Overall the principle of this scheme is considered to be of an appropriate size to accommodate 1 dwelling, but no further assessment can be made of the site until additional information is supplied in a reserved matters application. There is a high prospect of designing a dwelling for the site which reflects the local character of the street. Overall the proposed development is considered to be appropriately sized to respond to the provisions of policies CS2 and CS18 of the Core Strategy, the wider SPD and revised NPPF.

7.0 **Environmental Services**

7.1 Environmental Services were consulted on the application and they have not provided comments. It is considered that the proposal requires conditions to control working hours and air quality.

8.0 **Drainage**

8.1 Design Services were consulted on the application and they stated that the site was not in a flood risk area and that no objections arise.

9.0 **Highways Issues**

9.1 The Highway Authority has requested that the proposed and existing dwelling includes 2 parking spaces of an adequate size. It is considered that this is possible and can be secured by condition.

9.2 Having regard to the principles of policies CS2 and CS18 of the Local Plan in respect of highway safety it is not considered that the development proposals pose any serious adverse risk to highway safety. It is considered that sufficient space is available on site to provide an adequate level of off street parking, subject to condition.

10.0 **Coal Mining Risk**

10.1 In respect of potential Coal Mining Risk, the site the subject of the application is situated within a low risk area, and the Coal Authority has not therefore been consulted because standing advice applies.

11.0 **Community Infrastructure Levy (CIL)**

11.1 Having regard to the nature of the application proposals the development comprises the creation of 1 no. new dwelling and the development is therefore CIL Liable. The site the subject of the application lies within the medium CIL zone and therefore the full CIL Liability would be determined at the reserved matters stage on the basis of a cumulative charge of £50 per sqm (index linked) of gross internal floor area created.

12.0 **REPRESENTATIONS**

12.1 No comments received.

13.0 **HUMAN RIGHTS ACT 1998**

13.1 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

13.2 It is considered that the recommendation is objective and in accordance with clearly established law.

13.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

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

- 14.1 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 February 2019 National Planning Policy Framework (NPPF).
- 14.2 Given that the proposed development would technically be in conflict with the local plan policy since it is regarded as a greenfield site it is considered on balance that the development can be accepted given the revised NPPF (February 2019) and the minor nature of the scheme on a site which would be developed entirely within the character and appearance of its local context. The LPA has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.
- 14.3 The applicant / agent will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

15.0 **CONCLUSION**

- 15.1 The proposals are considered on balance to be appropriate as it is considered that there is adequate space on site for 1 dwelling. The location of the proposed development site is within a well established residential street and which is reasonably served by public transport and amenities. As such, the proposal generally accords with the requirements of policies CS1, CS2, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.
- 15.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS9 and CS20 of the Core Strategy and the wider NPPF in respect of Highways, drainage, coal mining and air pollution. This application would be liable for payment of the Community Infrastructure Levy.

16.0 **RECOMMENDATION**

16.1 That the application be **GRANTED** subject to the following conditions:

Conditions

1. Approval of the details of the access, scale, layout, external appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Concurrent with the submission of a reserved matters application, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.
5. Unless otherwise approved in writing by the Local Planning Authority demolition, remediation or construction work to implement the permission hereby granted shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 1:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.
6. Concurrent with a reserved matters application, drawings shall be provided which show the possibility of the proposed new driveway to have visibility splays of 2.4m x 43m over land the subject of the application/highway in both directions, and then agreed in writing with the Local Planning Authority.

The area in advance of the sightlines shall be maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

7. The Reserved Matters submission shall include full details of the provision of 2 parking spaces each for No 33 Brooke Drive and the new dwelling and which shall be provided and be available for use concurrent with the first occupation of the new dwelling. The parking spaces shall be retained available for use thereafter.
8. The Reserved Matters submission shall include drawings which show details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works.
9. The Reserved Matters submission shall include full details of a residential electric vehicle charging point which shall be provided as part of the development prior to first occupation of the dwelling and which shall be maintained for the life of the approved development.

Reasons for Conditions

1. The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).
2. The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.
3. The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.
4. The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.
5. In the interests of residential amenities.

6. In the interests of highway safety.
7. In the interests of highway safety
8. To ensure that the development can be properly drained.
9. In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

Notes

1. Any new drainage for the proposed building and any amendments to the existing building drainage may require Building Control approval. Consultations with Yorkshire Water will be required should the applicant wish to discharge to a public sewer.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
3. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

5. Ideally, car parking provision should be made on the basis of two spaces per two/three bedroom dwelling or three spaces per four/four plus bedroom dwelling. A single garage should have internal measurements of 3m x 6m, spaces in front of a garage should be 6m in length and other spaces 2.4m x 5.5m. There should be adequate space behind each space for manoeuvring.
6. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp
7. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may be eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.