

**PARISH** Tibshelf

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**APPLICATION** Change of use from agricultural to use for keeping and riding of horses, erection of stables and menage and part for domestic garden use.  
**LOCATION** 17 Chesterfield Road Tibshelf Alfreton DE55 5NJ  
**APPLICANT** Mr Christopher Pearson Hilltop House 17 Chesterfield Road Tibshelf Alfreton DE55 5NJ  
**APPLICATION NO.** 15/00399/FUL **FILE NO.**  
**CASE OFFICER** Mrs Karen Wake (Mon, Tues, Wed)  
**DATE RECEIVED** 6th August 2015

Delegated application referred to Committee by: Cllr Heffer  
Reason: Development in the countryside and planning history

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### **SITE**

Agricultural land to the rear of existing dwellings and gardens which slopes down towards the west. The dwelling on site is two storey. The dwellings along Chesterfield Road are a mixture of two storey and single storey dwellings. There is a wall and fence approx 1.2m in height along the eastern site boundary with a two storey dwelling beyond. There is a mature hedge and trees along the southern boundary with farm and fields beyond. There is a hedge along the northern boundary which is approx 1.5m high where it runs adjacent to the garden of the single storey dwelling to the north of the site, but is higher where it divides the site from adjacent fields. There is also a mature hedge along the western boundary of the site. There is a field gate which is accessed from Chesterfield Road between 19 and 21 Chesterfield Road. A public footpath runs down the access to the field and crosses the whole of the site.

### **PROPOSAL**

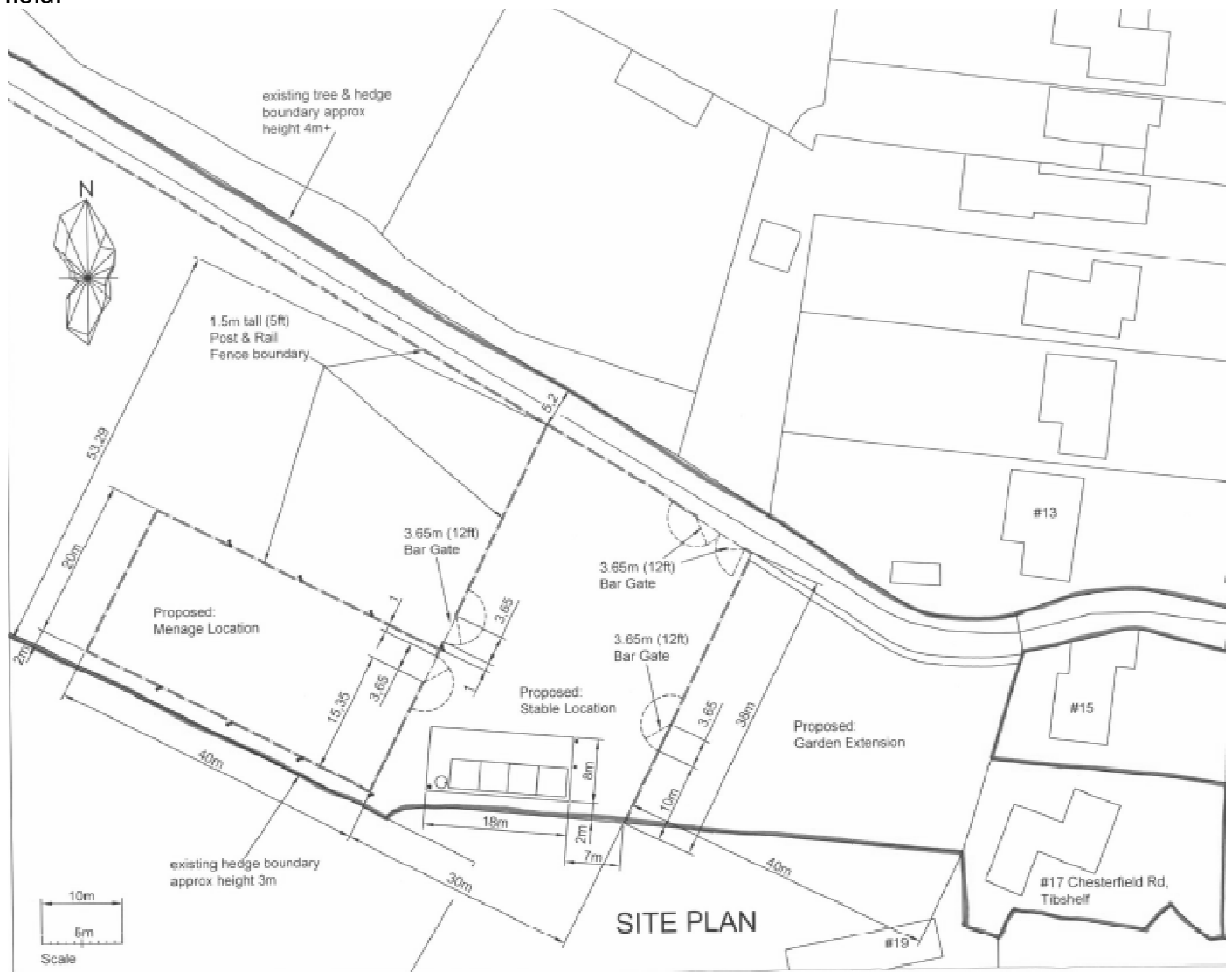
The application is for the change of use of part of the site to a garden with the remainder of the site to be used for keeping horses. The proposal includes the construction a manege and a erection of a stable block. The manege proposed is 20m x 40m with a sand and rubber surface with a post and rail fence around the edge. Eight twin floodlights were proposed around the manege on posts which are 4m high (see amendments below).

The stable block is proposed to be constructed in timber with black onduline roof. The block includes two stables a tack room and a storage room. The block is 3.6m wide and 14.6m long with a pitched roof which is 3.65m high to the ridge. The stable block is to be erected on a larger concrete base which 8m wide and 18m long to create a yard area to the front and side of the stables. Three twin floodlights were proposed mounted on posts around the stable yard which are 3m high (see amendment below).

A post and rail fence approx 1.5m high is proposed around the paddock and dividing the paddock from the proposed garden extension which contains a gate to give access to the proposed stables from the house on site.

The proposed garden extension extends across the back of the existing dwelling and the adjacent dwelling to the north of the dwelling on site and extends approx 40m into the existing

field.



### AMENDMENTS

Additional information received to show existing and proposed levels in relation to the stables and manège and luminance levels plan showing light spillage from the proposed floodlights.

Ecology report also submitted.

The floodlights to the manège and stable yard have been removed from the proposal.

### HISTORY (if relevant)

09/00389/FUL: First floor extension to side and rear over existing single storey extension:  
Approved 10/9/2009

03/00723/FUL: First floor extension to side and rear and conversion to two dwellings and creation of a new vehicular access: Approved: 8/1/2004

03/00165/FUL: First floor extension to side and rear and conversion to two dwellings:  
Refused: 6/5/2003

## **CONSULTATIONS**

Senior Engineer: There is a combined rising main of relatively shallow depth that is located within the footprint of the proposed manege as indicated on the attached sewer record. The applicant should be advised to contact Severn Trent Water Ltd in order to determine their responsibilities under the relevant legislation and in respect of any works that may be necessary to protect the rising main: 17/9/2015.

DCC Rights of Way: No objections as the proposal does not affect the footpath route. Notes should be added to any permission to advise the applicant that the footpath must remain open, unobstructed and on its legal alignment at all times, there should be no disturbance of the footpath surface without prior authorisation of the Rights of Way Inspector, consideration should be given to members of the public using the footpath at all times, the width of the right of way should not be encroached upon, including by any planting and a temporary closure of the footpath may be granted to facilitate public safety during the construction period and the Rights of Way Officer should be contacted in this respect and give at least 5 weeks notice: 28/9/2015

Chesterfield & NE Derbyshire Group of Ramblers: The applicant states that there will not be any changes to the public right of way but the intention appears to be to create an enclosed path with post and rail fence and conifer hedge. Such paths often become overgrown, Any fence should allow at least the width of the footpath and hedging should be avoided. The footpath should remain open at all times and no additional furniture e.g gates etc should be added without the agreement of the Rights of Way Inspector: 01/10/2015

Parish Council: Object to the proposals and support the objections raised by residents. Should the application be approved, conditions should be attached to ensure that any development is non-commercial and that the building of any structures ancillary to the residential development within the garden area be controlled: 28/10/2015

DCC Highways: No objections subject to condition that the stables and manege will be private for the use of occupants of 17 Chesterfield Road and no commercial use shall be operated: 8/10/2015

Derbyshire Wildlife Trust: The proposal mainly affects an area of species poor grassland and it is unlikely that the proposal will directly impact on either existing hedgerows or areas of woodland. On this basis it is unlikely that there would be any significant adverse impacts on habitats resulting from the proposal. Expressed concern about the potential impact of the floodlights and requested more information about the detail of the floodlights (the floodlights have now been removed from the application).

## **PUBLICITY**

Site notice and 6 neighbours notified. Letters of objection have been received from 14 residents and a 60 name petition has been received. The objections raised are as follows:

1. What actually constitutes the application plan is unclear
2. Conifer hedging and trellis fence are domestic in character and would not normally be found enclosing rural farmland and would not improve the rural environment
3. Planning permission has previously been refused and an appeal dismissed for residential development at land adjacent to Lane End Farm. The Inspector considered the main issue to be the effect of the proposed access road on the character and appearance of the area. The proposed access road would have crossed the application site. The Inspector felt the access road would be clearly visible from adjacent dwellings and the footpath and would be an undesirable intrusion into open countryside and would harm the environment and the character and appearance of the

area contrary to Policy ENV 3. The Inspector also identified that if it were approved it would set a precedent for similar development resulting in further intrusion into the open countryside

4. The landscape in this locality has been identified in the Derbyshire Landscape Character assessment
5. The site slopes quite significantly from east to west and level plateaus would need to be created but no topographical levels details have been submitted by the applicant
6. A combined public sewer crosses the site at a relatively shallow depth and this has not been taken into account
7. It is not clear the level of engineering works required or whether any earth banks or retaining walls are required. It is likely that significant earthworks will be required due to the slope of the site. This would be detrimental to the open countryside and rural character of this undulating landscape and seriously harmful to the environment
8. Installation of 11 floodlights on lighting columns constitutes poor design and would negatively impact on local amenity and create unnecessary light pollution in the open countryside away from the defined settlement boundary.
9. The proposal would have a detrimental impact on the outlook for adjacent residents and harm their residential amenity particularly for 19 Chesterfield Road which has a relatively short garden. This property currently has an open rear aspect and far reaching outlook. This would be harmed by a screen fence on the boundary creating a sense of enclosure which would be detrimental to the adjacent property
10. If the application is approved full domestic permitted development rights should be removed from the extended garden to ensure the impact on residential amenity of neighbouring properties can be assessed
11. The proposal is contrary to Policies GEN 1, GEN 2, GEN 8, GEN 11, GEN 12 and ENV 3 of the Bolsover District Local Plan and the advice contained in the NPPF particularly where it relates to seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings and would not contribute to conserving and enhancing the natural environment and reducing pollution.
12. Policy ENV 3 states development will only be permitted outside settlement frameworks if it meets certain criteria and this application does not fulfil any of these criteria.
13. The existing garden at 17 Chesterfield Road matches that at 19 Chesterfield Road. The proposed garden size is excessive and extends across the back of the adjacent property which is unacceptable and un-neighbourly.
14. A children's party was recently held in the field causing excessive noise and disturbance to adjacent property. The garden extension is likely to result in regular noise disturbance, loss of privacy and nuisance to adjacent neighbours, harming their residential amenity
15. A garden extension is not necessary in the countryside and would harm the rural landscape
16. Visibility from the proposed access is poor and the access is parallel to the access at 19 Chesterfield Road and will create a safety hazard
17. Intensification of the use of the access by visitors to the equestrian centre will cause traffic problems, conflict between vehicles and footpath users and cause on-street parking
18. The access is adjacent to the bedroom window of the adjacent property causing disturbance to residents

19. The applicant does not train horses and this is therefore a commercial application
20. Noise and light from the proposal will have an urbanising impact on the countryside
21. The applicant refers to a manege at 35 Chesterfield Road but this is irrelevant as it does not appear to have had planning permission.
22. If approved the applicant will want to change the stables to a dwelling.
23. No reference is made to waste storage/disposal and this will cause loss of amenity to residents and footpath walkers
24. The 17ft wide road proposed across the site will be detrimental to the countryside
25. If approved the proposal will set a precedent for more unnecessary development in the countryside
26. Vehicles using this narrow access will damage adjacent dwellings
27. The proposal is contrary to the Human Rights of adjacent residents who have a right to the peaceful enjoyment of their own homes
28. There is an access from the rear of 19 Chesterfield Road onto the footpath and this is shown on the deeds to the property and this access cannot be interfered with by fencing or hedging.
29. Conifer hedging to the boundaries will cause loss of light to adjacent property and gardens.
30. The proposal will interrupt and destroy views from adjacent properties and from the footpath.
31. The proposal does not safeguard the footpath for future users
32. The proposal will result in a loss of wildlife habitat
33. The application is entirely on Green Belt land and should be refused
34. The house numbers shown on the drawing are incorrect and misleading
35. Many local authorities have specific policies to prevent garden extensions into open countryside and behind other peoples gardens
36. The ecology report is inadequate
37. The lighting will be extremely intrusive for neighbours as well as to the open countryside
38. Maneges in nearby areas which come under North East Derbyshire Council are not allowed to have lights or to be for commercial purposes and control manure storage and disposal
39. There is a locked gate across the footpath which prevent people with disabilities from using the footpath
40. The applicant only finds their garden too small as they have reduced its size by building an extension.
41. Approval of this proposal is just another step towards building houses on the site.
42. The lights will be visible from Chesterfield Road and will be distracting to motorists causing accidents
43. The conifer hedge will obscure visibility of the footpath making it unsafe for walkers particularly women and children
44. If the lights are passed there should be restriction on the hours of operation

Two letters of support received which raise the following issues:

1. The proposal will not affect the footpath and seeing horses in the field will be a pleasure.
2. The stables, manege and materials are in keeping with the appearance of the local area and will not have a negative impact but will enhance it.

3. Equestrian leisure pursuits should be encouraged in the countryside
4. People currently using the footpath do not stick to the path but let their dogs run loose such that they stray onto adjacent land chasing other dogs, horses and chickens

## **POLICY**

### Bolsover District Local Plan (BDLP)

GEN 1 (Minimum Requirements for Development)

GEN 2 (Impact of the Development on the Environment),

GEN 8 (Settlement Frameworks)

GEN 11 (Development Adjoining the Settlement Framework)

ENV 3 (Development in the Countryside)

ENV 5 (Nature Conservation Interests Throughout the District)

### National Planning Policy Framework

Paragraph 14: At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

Paragraph 17: sets out 12 principles to be applied to planning including taking account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it and contributing to conserving and enhancing the natural environment and reducing pollution

Paragraph 56: Attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 109: The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils and recognising the wider benefits of ecosystem services, minimising impacts on biodiversity

## **ASSESSMENT**

The site is within an area of open countryside adjacent to the settlement framework boundary of Tibshelf. Policy GEN 8 of the Bolsover District Local Plan states that outside settlement frameworks, open countryside policies apply.

### Extension to the garden

Policy ENV 3 of the Bolsover District Local Plan sets out the criteria where development in the countryside is considered to be acceptable. The proposed garden extension is not considered

to meet any of these criteria and as such this element of the proposal is considered to be contrary to this policy. However, the Local Plan is some 15 years old and the NPPF gives a presumption in favour of development and states that where relevant policies in the Local Plan are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or where specific policies in this Framework indicate development should be restricted.

There are not considered to be any policies in the NPPF which would restrict this garden extension. The settlement framework boundary runs across the rear boundary of the gardens to the dwellings to the north of the site from no 21 onwards and then steps in behind the dwelling on site and number 19 Chesterfield Road. The proposed garden extension runs behind 19 Chesterfield Road but does not extend out beyond the gardens of no 21 Chesterfield Road and the line of dwellings to the north of this.

The garden extension is therefore not considered to be viewed against these adjacent gardens and is not considered to have a significant impact on the adjacent open countryside, particularly if suitable boundary treatment is required by condition and permitted development rights are removed to prevent intrusive domestic paraphernalia. Subject to such a condition the garden extension is not considered to have a detrimental, urbanising impact on the character of the open countryside and is considered to meet the requirements of the NPPF.

The garden proposed extends across the rear of the adjacent dwelling at 19 Chesterfield Road and the rear garden at 19 Chesterfield Road is only 5m deep. The proposed garden extension is considered to have potential to result in a loss of privacy to the rear of 19 Chesterfield Road, however this loss of privacy could be mitigated by the erection of a suitable boundary fence/hedge to the rear of 19 Chesterfield Road and this can be required by condition. The removal of permitted development rights from the garden area will also restrict the erection of outbuilding etc which could also potentially impact on the privacy and amenity of residents of this dwelling. The use of this garden could potentially result in noise/disturbance to the residents of adjacent dwellings but no more so than the normal domestic use of a garden which can reasonably be expected adjacent to dwellings. Subject to the conditions suggested above the proposed garden extension is not considered to have a significant impact on the privacy or amenity of residents of adjacent dwellings and the proposal is considered to meet the requirements of Policy GEN 2 of the Bolsover District Council.

The garden extension is accessed via the existing dwelling at 17 Chesterfield Road and is not considered to result in any increase in vehicular movements to and from the site and is not considered to be detrimental to highway safety. The garden is to be separated from the adjacent public footpath and subject to suitable boundary treatment the proposal is not considered detrimental to the use of the footpath. On this basis the proposal is considered to meet the requirements of Policy GEN 1 of the Bolsover District Local Plan.

Subject to the retention of existing boundary hedges the proposed garden extension is not considered to have a detrimental impact on existing habitats and there are no objections to the proposal from Derbyshire Wildlife Trust in this respect. This part of the proposal is

therefore not considered to be detrimental to nature conservation interests and is considered to meet the requirements of Policy ENV 5 of the Bolsover District Local Plan.

Change of Use to keeping of horses, erection of stables and construction of a manege

The proposal includes the erection of a stable block on a concrete yard, the division of the field to paddocks and the construction of a manege all for personal use.

It is accepted that the use of land for keeping horses requires a rural location. The stable building proposed is of a scale, design and materials which are considered to be acceptable for keeping horses and which are not generally considered to be detrimental to the rural landscape. The proposed manege is also of a standard scale and design which is considered reasonable for its intended purpose.

The site slopes down east to west and the proposed development requires some cut and fill of the existing land levels to achieve level surfaces. Sections and levels details have been submitted and the proposed alterations to ground levels have been kept to a minimum. Both the manege and the stables are close to the southern site boundary and are screened from views from the south by the mature hedge which is to be retained on the southern boundary. In the other views across the site the proposal is seen against the mature hedge and adjacent buildings at Lane End Farm. The proposed development is therefore considered to be sited in a position to minimise its impact on the open countryside and is not considered to have a harmful impact on the rural landscape. The view of this site will change, but it is reasonable for equestrian uses to have a rural location and providing that the associated development is a reasonable scale, design and materials that does not have an undue urbanising impact on the landscape, they are considered to be an acceptable rural use. On this basis the proposal is considered to meet the requirements of Policies ENV 3 and GEN 11 of the Bolsover District Local Plan.

The manege and stables are set well away from adjacent dwellings. The proposed development is for personal use not a commercial use and this can be controlled by condition. Subject to such a condition the proposal is not considered to result in undue noise or disturbance for residents of adjacent dwellings and is not considered to have a significant impact on the privacy or amenity of residents of adjacent dwellings. The proposal is therefore considered to meet the requirements of Policy GEN 2 of the Bolsover District Local Plan.

The access to the site is to be from the garden of the dwelling on site and via an existing field access along which the public footpath runs. During construction of the development there is potential for conflict with the users of the footpath such that temporary closure may be required. This is an issue covered by Derbyshire County Council who are responsible for the Right of Way. The construction period may require access from delivery and construction vehicles but this will only be for a short period of time with very little ongoing need for large vehicles to use the access. Subject to a condition requiring the use of the site to be a personal not commercial use the proposal is not considered to result in an intensification of the use of the access and there are no objections to the proposal from the Highway Authority in term of highway safety. On this basis the proposal is considered to meet the requirements of Policy GEN 1 of the Bolsover District Local Plan. An agricultural use of the field could result in some use of the access; it is difficult to demonstrate any significant impact from the proposal in this respect.



The proposal includes retention of existing hedgerows and the floodlights have been removed from the application. Derbyshire Wildlife Trust had no objection to the proposal other than some concerns about the impact of the floodlights. The removal of the floodlights from the application means the proposal is not considered to have a detrimental impact on wildlife or their habitats and the amended proposal is therefore considered to meet the requirements of Policy ENV 5 of the Bolsover District Local Plan.

The proposal includes fencing off the existing footpath which crosses the site. This will leave the footpath unobstructed whilst protecting the horses kept on site from footpath users and vice versa. The post and rail fence proposed, which is appropriate to a countryside location, would not itself require planning permission and the line/width of the footpath is covered by other legislation and cannot be controlled via planning condition. However, a note can be added to any permission to advise the applicant of the requirements in relation to the public footpath.

A combined public sewer crosses the site. A note can be added to any permission to advise the applicant of this fact so that they can contact Severn Trent Water directly to agree any works required.

#### Issues raised by Local Residents

Most of the issues raised by local residents are covered in the above assessment.

The issue of a previous appeal for a road to serve new residential development has been raised. Each application is considered on its individual merits. The previous application was substantially different to the current proposal and was submitted 14 years ago prior to the introduction of the NPPF. The Inspector referred to the road as forming a new edge to the built up area; it would have required the removal of the hedge "heavily planted with bushes and trees, and now provides an attractive transition between developed land and the open field. The current proposal retains the hedge and the development is for rural buildings and facilities. The position is materially different and that decision is not considered to be a significant element of the balanced decision in this case.

The development has been considered against the relevant policies in the Local Plan which have been quoted by residents with the exception of Policy GEN 12 as this is not a saved policy.

The issue of a children's party being held in the field has not been considered as this would not have required planning permission and is not considered to be relevant to this proposal.

The issue of changing the stables to a dwelling has not been considered as this would require separate planning permission.

The issue of a new road proposed across the site has not been considered as a road is not proposed across the site.

The issue of right of access from adjacent properties has not been considered as this is a private matter between the parties concerned.

The site is not within the Green Belt.

The issues of loss of view, the reduction of the size of the existing garden due to an extension, and the issue of future housing development have not been considered as these are not material planning issues and cannot be taken into account.

The issue of conifer hedges causing loss of light has not been considered as such a hedge would not require planning permission. However a boundary treatment condition is considered necessary to ensure the boundary treatments in and around the site are acceptable in this rural setting.

The issue of disposal of manure has not been considered as this is controlled by other legislation and would be covered by Environmental Health if it were to become a nuisance.

Policies relating to manage and garden extensions by other Councils has not been considered as these are not policies of this Council.

### **Other Matters**

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: N/A

Equalities: N/A

Access for Disabled: N/A

Trees (Preservation and Planting): No issues relating to this proposal

SSSI Impacts: N/A

Biodiversity: Covered in the above assessment

Human Rights: The judgement of planning merits is deemed to be sufficient to achieve the balance between human rights; there are no excessive impacts that would indicate that the normal balance is not sufficient in this case.

**RECOMMENDATION: Approve subject to the following conditions which are given in précis form to be formulated in full by the Assistant Director of Planning.**

1. Start within 3 years
2. Notwithstanding submitted details, details of boundary treatments within the site and around the edge of the site to be submitted for approval
3. Use to be private and ancillary to 17 Chesterfield Road and no commercial use
4. Remove permitted development rights from garden
5. Materials of stable construction as set out in application form.

Notes: Advise applicant of requirements in relation to footpath; requirements in relation to combined public sewer; and boundary treatments to be suitable for a rural location.

