

Planning Statement

**29 Burton Road, Overseal,
Swadlincote, DE12 6LQ**

**Erection of a detached dwelling
(outline application with layout and
access included)**

Client Name: Gillian Edwards

Date of Issue: February 2022

Local Authority: South Derbyshire District Council

Prepared by: J J M Planning Ltd



J J M Planning

Independent Planning Consultancy Services

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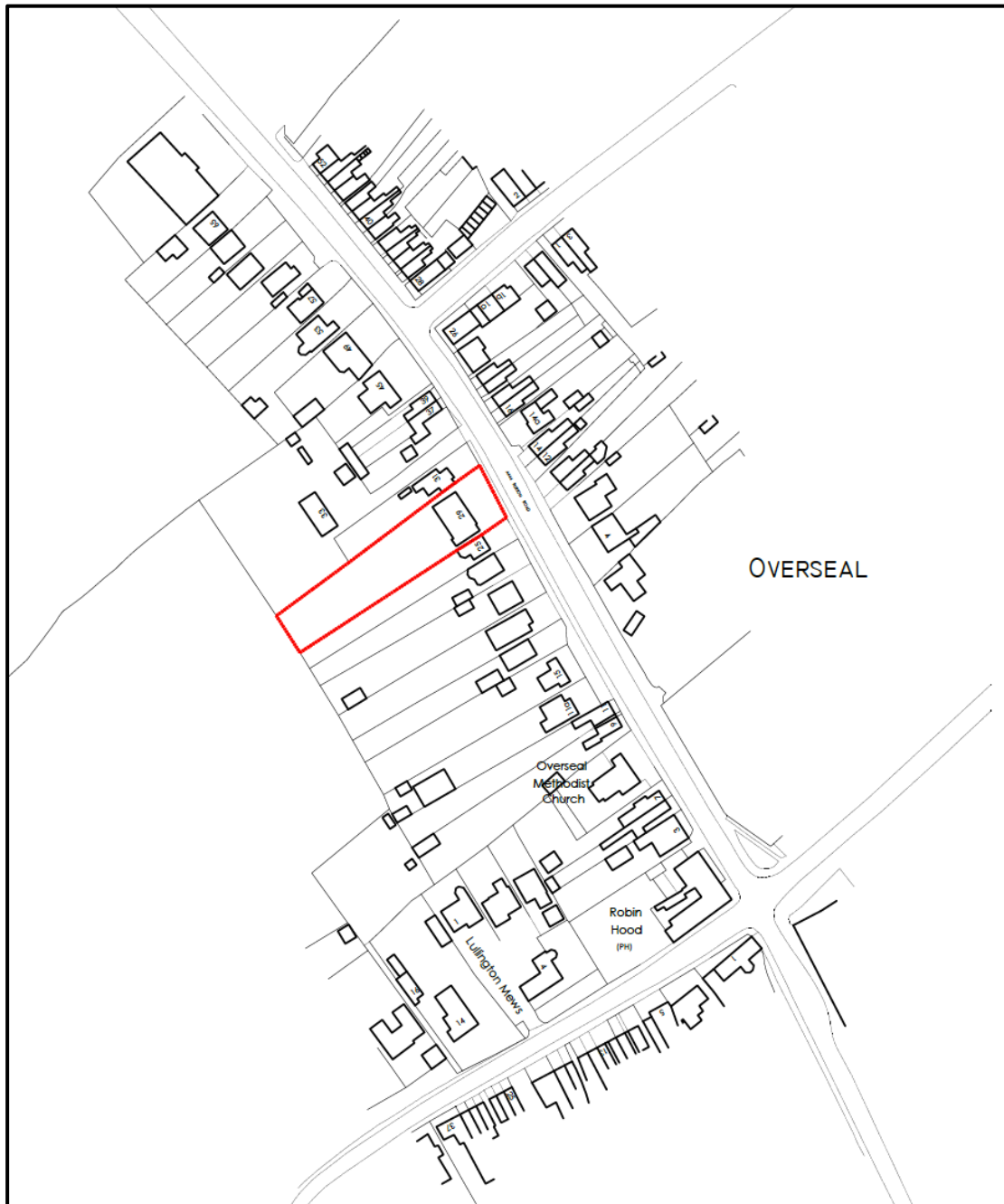
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1.0 INTRODUCTION AND SITE DESCRIPTION

- 1.1 This Planning Statement has been prepared on behalf of Gillian Edwards in support of an outline planning application for the erection of a single storey detached dwelling at 29 Burton Road, Overseal.
- 1.2 This statement should be read in conjunction with the accompanying documents which include:
 - Plans and drawings;
 - Application form;
 - River Mease/Drainage Statement.
- 1.3 This statement describes the application site, the locality and comments on the relevant Development Plan and national policy framework policies. It goes onto provide an assessment of the proposal in relation to the relevant policies.
- 1.4 The site measures 0.15 hectares and is generally rectangular in shape. The existing residential bungalow is situated in a prominent location to the south-west of Burton Road in Overseal.
- 1.5 The existing dormer bungalow fronts onto Burton Road and has a large car parking area to its frontage and a single storey flat roofed garage located on its southern side elevation. The existing property is constructed in red brick, clay tiles roof and UPVC windows. The existing property benefits from a long rear garden measuring around 65 metres in length.
- 1.6 The site is located in a predominantly residential area with dwellings located on either side of Burton Road. The area consists of a range of types and styles of housing with single storey and two storey detached, semi-detached and terraced properties. Beyond the sites rear boundary is open countryside.
- 1.7 The site and its surroundings are shown in more detail on the image below:



- 1.8 The application site lies within the limits to development as defined by the South Derbyshire Local Plan. It is located around 160 metres from the existing Local Centre of Overseal which contains a range of services and facilities. The Local Plan identifies Overseal as a Key Service Village which sits high up in the settlement hierarchy.
- 1.9 The application site is not located in a Conservation Area and is not located in close proximity to any Listed Buildings.

2.0 PLANNING HISTORY

- 2.1 No planning history found on the South Derbyshire District Council website.
- 2.2 Pre-application advice was undertaken with the Local Planning Authority regarding the proposal as submitted. A response was provided by the Local Planning Authority on 5 January 2022 and a copy of the response is included in Appendix 1 of this statement.

3.0 PROPOSED DEVELOPMENT

- 3.1 The proposal comprises the erection of a single storey detached dwelling within the application site. The application is submitted in outline with details of only access and layout submitted for consideration at this stage. The remaining reserved matters (scale, appearance and landscaping) would be considered at a later date should outline planning permission be granted. The overall size of the application site is 1565 square metres.
- 3.2 The layout details are shown on drawing number JJM.2022.108-001 and show how the proposed dwelling would be positioned within the rear garden of the existing site. Parking and turning would be provided forward of the proposed dwelling and private amenity areas would be located to the rear.
- 3.3 Indicative elevation plans have also been provided on drawing number JJM.2022.108-001 indicating potential scale and appearance details. However, it should be noted that these are indicative details only and these matters would be reserved for future consideration as part of subsequent reserved matters application(s) should outline planning permission be granted.
- 3.4 The access details are also shown on drawing number JJM.2022.108-001 and demonstrate how access would be provided to the proposed dwelling by utilising the existing access off Burton Road and demolishing the existing single storey garage along the southern boundary. A new access drive serving the proposed dwelling would run along the southern boundary and lead to a parking and turning area for at least two vehicles along with proposed garaging. Parking and turning in association with the existing residential property would be provided within the existing surfaced area to the north-east of the existing dwelling and would provide space for at least two vehicles. Amendments are also proposed in relation to the existing brick wall at the site frontage which would be reduced to 0.6 metres in height in order to improve visibility along Burton Road.

4.0 MAIN ISSUES

- 4.1 Section 70(2) of the Town and Country Planning Act 1990 requires that when dealing with an application for planning permission, Local Planning Authorities must have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section S38(6) of the Planning and Compensation Act 2004 requires that decisions on planning applications should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 4.2 Having regard to the above, it is considered that the main issues raised by the application are:
1. Principle of the development
 2. Highway safety and off-street parking
 3. Design and visual amenity
 4. Living conditions of neighbouring properties
 5. Drainage and impact on River Mease SAC
 6. Other matters
- 4.3 The main planning policies that are relevant to these main issues are included in Section 5.0 below.

5.0 PLANNING POLICIES

- 5.1 The (revised) National Planning Policy Framework (2021) (NPPF) confirms that it does not change the statutory status of the development plan as the starting point for decision making. It also confirms its status as a material consideration in determining planning applications. The NPPF continues to advise that proposed development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF also advises that due weight should be given to development plan policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 5.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an application for planning permission should be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 5.3 The policy context for this application is provided by the development plan and national planning policy in the NPPF as well as Planning Practice Guidance issued in April 2014 (as subsequently amended) (PPG). The development plan includes the South Derbyshire Local Plan (adopted June 2016) (LP).
- 5.4 Those policies which are the most important for determining this planning application are set out below:

South Derbyshire Local Plan (2011-2028)

- 5.5 LP Policy S1 (Sustainable Growth Strategy) South Derbyshire will promote sustainable growth to meet its objectively assessed housing and commercial needs in the plan period 2011-2028. It indicates that over the plan period at least 12,618 dwellings will be built and will be met on a mixture of brownfield and greenfield sites with encouragement given to the re-use of previously developed land.
- 5.6 LP Policy S2 (Presumption of Sustainable Development) states that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to seek solutions, which mean that proposals secure development that improves the economic, social and environmental conditions in the area.
- 5.7 LP Policy S4 (Housing Strategy) provides more guidance on how South Derbyshire District Council intends to provide for at least 12,618 additional dwellings over the plan period and splits these over strategic and non-strategic sites.

- 5.8 LP Policy S6 (Sustainable Access) seeks to minimise the need to travel, make the most efficient use of transport infrastructure and services, encourage modal shift away from the private car and road based freight toward walking, cycling, public transport and rail freight; and support transport measures that address accessibility, safety, amenity, health, social, environmental and economic needs, both current and forecast.
- 5.9 LP Policy H1 (Settlement Hierarchy) is based on the range of services and facilities that are offered by each settlement. The level of development for each settlement will be of a scale appropriate to the size and role of that settlement. LP H1 identifies Swadlincote as an Urban Area which is the highest tier in the settlement hierarchy where development of all sizes within the settlement boundaries will be considered appropriate.
- 5.10 LP Policy H20 (Housing Balance) indicates that the Council will seek to provide a balance of housing that includes a mix of dwelling type, tenure, size and density. Any housing. Any housing development would be expected to make the most efficient use of the land whilst taking into account what is appropriate for the surrounding local built and natural environment.
- 5.11 LP Policy SD1 (Amenity and Environmental Quality) provides that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.
- 5.12 LP Policy SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure) states that the Council will work with Derbyshire County Council, Water Companies, Developers, and other Authorities and relevant stakeholders to ensure that South Derbyshire's future water resource needs, wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner.
- 5.13 LP Policy SD4 (Contaminated Land and Mining Legacy Issues) is concerned with ensuring that suitable mitigation measures are included in respect of any for development on land which is known to comprise made ground or which is unstable, contaminated or potentially contaminated.
- 5.14 LP Policy BNE1 (Design Excellence) requires all new development to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life by adhering to a number of set design principles.
- 5.15 LP Policy BNE3 (Biodiversity) supports development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity wherever possible.

- 5.16 LP Policy BNE4 (Landscape Character and Local Distinctiveness) is concerned with the character, local distinctiveness, and quality of South Derbyshire's landscape and soilscape which will be protected and enhanced through the careful design and sensitive implementation of new development
- 5.17 LP Policy INF2 (Sustainable Transport) states that planning permission will be granted for development where travel generated by development does not have an undue detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services. It requires appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car and that car travel generated by the development is minimised relative to the needs of the development.
- 5.18 LP Policy INF8 (The National Forest) requires the Council to work with The National Forest Company in order to create an attractive, sustainable environment and to achieve 33% woodland cover in the National Forest.
- 5.19 LP Policy SDT1 (Settlement Boundaries and Development) sets out that settlement boundaries define the built limits of a settlement. Within settlement boundaries development will be permitted where it accords with the development plan.
- 5.20 LP Policy BNE7 (Trees, Woodland and Hedgerows) states that where development is proposed that could affect trees, woodland and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that the layout and form of development have been informed by an appropriate arboricultural survey. It also required that development would not suffer from undue shading either now or in the future and that appropriate measures are secured to ensure adequate root protection and buffers around trees, woodland and hedgerows.

The National Planning Policy Framework 2021 (NPPF)

- 5.21 At the heart of the NPPF is a presumption in favour of sustainable development. There are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives. These are an economic objective, a social objective, and an environmental objective. The economic objective seeks to ensure sufficient land of the right types is available in the right places at the right time to support growth. The social objective seeks to support strong, vibrant, and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of the present and future generations and by fostering a well-designed and safe built environment. The environmental objective seeks to contribute to protecting and enhancing our natural, built, and historic environment, including making effective use of land.

- 5.22 Amongst other things, paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and that for decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.
- 5.23 Paragraph 47 of the NPPF indicates that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 5.24 Paragraphs 55-57 set out that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must only be sought where they are a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
- 5.25 Paragraphs 60 and 62 of the NPPF are concerned with delivering a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes. The size, type and tenure of housing needed for different groups should be reflected in planning policies.
- 5.26 Paragraph 71 of the NPPF indicates that plans should Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
- 5.27 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.28 Paragraphs 119 and 120 of the NPPF seeks to make the effective use of land. It states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It goes on to say that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 5.29 Paragraphs 126, 127, 128 and 130 of the NPPF seeks to achieve well-designed places. It states the creation of high-quality buildings is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live. Planning

decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. It also states 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.

- 5.30 Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 states that Local Planning Authorities should ensure that floor risk is not increased elsewhere when determining planning applications.
- 5.31 Paragraphs 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It also requires a contribution towards remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 5.32 Paragraphs 179-181 is concerned with habitats and biodiversity and seeks to protect and enhance. It advises that development which results in significant harm to biodiversity should be refused unless it can be adequately mitigated, or, as a last resort, compensated for. Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.
- 5.33 Paragraphs 183-185 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Other Policy and Guidance

- 5.34 Although not having the formal status and weight of adopted planning policy there are a number of other pieces of guidance relevant to decision-making within South Derbyshire including:

- National Planning Practice Guidance - March 2014 (as amended)
- South Derbyshire Design Guide – November 2017
- The Conservation of Habitats and Species Regulations 2017
- Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System
- River Mease Water Quality Management Plan – August 2011
- The River Mease Developer Contributions Scheme (DCS) – September 2016
- National Forest Strategy 2014-2024
- National Design Guide – October 2019
- Natural England's Standing Advice 4th Edition – November 2021
- Environment Agency Advice for Local Authorities on non-mains drainage from non-major development

6.0 PLANNING ASSESSMENT

The principle of development

- 6.1 LP Policy H1 identifies Overseal as a Key Service Village and is located towards the top of the tiers of the settlement hierarchy. This policy states that development of all sizes within the settlement boundaries will be considered appropriate. The application site is located within the Limits to Development as defined by the Councils LP and, therefore would accord with LP Policy H1.
- 6.2 The application site lies in close proximity to the local centre of Overseal (approximately 160 metres to the south east) and is easy reach of the wide variety of services and facilities that Overseal benefits from. These include a village hall, public house, primary school, church and shop. It is considered that future residents could easily access the services and facilities which are available within the settlement, whilst also having the opportunity to access other settlements via public transport. There is also an hourly bus service, 7 days a week, between Ashby de la Zouch and Burton on Trent which provides accessibility to supermarkets, pharmacy, leisure centre and a range of restaurants and shops. (Midland classic 19). Future occupants would not be heavily dependent on the private car to access the most basic of services and consequently the development would be socially sustainable and in accordance with LP Policy S6.
- 6.3 It is noted that the Local Planning Authority agree that the principle of the development is acceptable in their pre-application advice response (see Appendix 1).
- 6.4 In conclusion, the proposal is located inside the Limits to Development within a Key Service Village where development is supported. The proposal is in a location that is in accordance with the LP settlement hierarchy and the principle of development on this site complies with Policies S1, S2, S4, S6 and H1 of the LP and the advice provided in the NPPF.

Highway Safety and off-street car parking

- 6.5 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.6 The access details are shown on drawing number JJM.2021.102-001 and demonstrate how access would be provided to the proposed dwelling by utilising the existing access off Burton Road (A444) and demolishing the existing single storey garage along the southern boundary. A new access drive measuring 2.75 metres in width would serve the proposed dwelling and would run along the southern boundary.

- 6.7 The Council's adopted Design SPD outlines that a minimum of two off-street parking spaces would be required for properties of between 1 - 3 bedrooms. The existing residential property on the site benefits from four car parking spaces which is an appropriate level of car parking. In terms of the car parking for the proposed dwelling, the overall number of bedrooms that the property would benefit from would be unknown until the reserved matters stage although the indicative details provided at this stage show how at least four car parking spaces could be provided on the site which would be adequate for any sized dwelling. Therefore, it is considered that the level of off-street car parking is in accordance with the guidance in the Design SPD and the County Council's Highway guidance.
- 6.8 Amendments are also proposed in relation to the existing brick wall at the site frontage which would be reduced to 0.6 metres in height in order to improve visibility along Burton Road. The submitted plans show how visibility splays of 2.4 x 60 metres would be provided to the north of the access and 2.4 x 60 metres to the south. The available visibility splays would be well in excess of the visibility required in relation to this 30mph road. Suitable pedestrian visibility splays are also provided and shown on the submitted drawing. The good levels of visibility are apparent in figures 13 and 14 provided at Appendix 3.
- 6.9 Subject to the imposition of conditions, the proposed development would not have an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe. A sufficient number of car parking spaces would be provided.
- 6.10 No highway safety issues were identified in the Council's pre-application advice response (see Appendix 1).
- 6.11 Overall, therefore, the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to INF2 of the adopted LP and the advice in paragraph 111 of the NPPF.

Design and visual amenity

- 6.12 The need for good design in new residential development is outlined not only in adopted Local Plan Policy BNE1, as well as the Council's adopted Design SPD, but also Section 12 of the NPPF.
- 6.13 Properties which exist in the immediate area are of differing character. Properties to the east of Burton Road are predominantly two storey terraced and semi-detached properties. To the west of Burton Road are predominantly detached dwellings either two storey or single storey in height and are set back around 11 metres back from the highway. However, to the north of the site (11 metres away from the application site) is a detached bungalow which is set back around 55 metres from Burton Road and provides an example of built development set back within the plot.

- 6.14 Paragraph 124 of the NPPF outlines that "planning policies and decisions should support development that makes an efficient use of land" taking into account such factors as "the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change" (criterion (d)) and "the importance of securing well-designed, attractive and healthy places." (criterion (e)).
- 6.15 This outline application seeks approval for access and layout. The details supplied show how access would be provided by the creation of an access drive along the southern boundary of the site. The provision of an access drives that run to the side and rear of existing properties is characteristic of the surrounding area and is shown on Figures 12, 15 and 16 in Appendix 3.
- 6.16 The layout details are shown on drawing number JJM.2021.102-001 and demonstrate how the proposed dwelling would be positioned to align with the front and rear elevations of the adjacent bungalow to ensure that the development is in keeping with the character of development in the surrounding area.
- 6.17 It is clear that the proposal would not represent an over-development of the site and would be in keeping with the character, appearance, plot size and density of other residential development in the surrounding area. The proposal sits comfortably and is consistent with the character and appearance of the surrounding area.
- 6.18 The detailed scale, appearance and landscaping of site would be subject to a future reserved matters application although the indicative details supplied give one possible way in which the reserved matters could come forward on the site.
- 6.19 These matters were specifically raised at the pre-application advice stage and no issues in respect of visual amenity were identified in the Council's pre-application advice response (see Appendix 1). Indeed the response from the Planning Officer states that *'the principle of development is acceptable due to there being an example of backland development a couple of doors away and more importantly there not being any specific policy wording in the Local Plan that discourages such development'*.
- 6.20 Overall, it is considered that the proposed scheme would result in good design and would be consistent with the aims of Policy BNE1 of the adopted LP, the Council's adopted Good Design SPD and Section 12 of the NPPF.

Living conditions of neighbouring properties

- 6.21 It is considered that the properties most immediately impacted on as a result of the development would be No.31 a two storey detached property to the north and No.25 a two storey detached property to the south east. Both of these adjacent properties are currently in residential use.

- 6.22 In terms of the impact upon No.31, the existing proposed dwelling would be sited more than 30 metres away from the rear elevation of the existing property. This would ensure against any significant overlooking, overbearing or overshadowing impacts upon the main dwellinghouse.
- 6.23 The proposed dwelling would be sited 2.0 metres away from the side boundary with the rear amenity space of No.31. However, given that this existing dwelling benefits from a long rear garden measuring approximately 33 metres and given that there is already a bungalow located in a similar location on its northern boundary, it is not considered that any significant overlooking, overbearing or overshadowing issues would result on the private amenity space belonging to No.31. It is recognised that the proposed dwelling would need to be single storey in height and the precise height of the dwelling would need to be considered at the reserved matters stage. At the reserved matters stage, new 2.0 metre high boundary treatments can be shown to ensure enhanced privacy along this boundary.
- 6.24 In terms of the impact upon No.25, the existing proposed dwelling would be sited more than 30 metres away from the rear elevation of the existing property. This would ensure against any significant overlooking, overbearing or overshadowing impacts upon the main dwellinghouse.
- 6.25 The proposed dwelling would be sited 2.0 metres away from the side boundary with the rear amenity space of No.25. However, given that this existing dwelling benefits from a long rear garden measuring approximately 63 metres, it is not considered that any significant overlooking, overbearing or overshadowing issues would result on the private amenity space belonging to No.25. It is recognised that the proposed dwelling would need to be single storey in height and the precise height of the dwelling would need to be considered at the reserved matters stage.
- 6.26 The proposed access drive would run along the southern boundary of the site and would be in close proximity to the side boundary with No.25. Concern is sometimes expressed regarding vehicle movements running in close proximity to rear gardens. However, the vehicle movements associated with a single dwelling would not be significant particular in the context of the number of vehicle movements along Burton Road. In addition, the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered to be a yardstick for an acceptable standard in an appeal decision at Ashby de la Zouch (07/00624/OUT) and which occurs elsewhere in Overseal (a copy of the appeal decision is included at Appendix 4). At the reserved matters stage, new 2.0 metre high boundary treatments can be shown along this boundary to limit any noise and disturbance issues.

- 6.27 These matters were specifically raised at the pre-application advice stage and no issues in respect of residential amenity were identified in the Council's pre-application advice response (see Appendix 1).
- 6.28 Having regard to the above, the proposals would not have a significant impact on the living conditions of occupiers of nearby dwellings. The impact on the living conditions of existing residents close to the proposals would be minimised and their amenity would not only be safeguarded but improved in accordance with LP Policy SD1. The proposals also comply with the general thrust of the NPPF so far as it seeks to ensure acceptable living standards.

Drainage and impact on River Mease SAC

- 6.29 The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) which is also a Site of Special Scientific Interest (SSSI). Discharge from the sewage treatment works within the River Mease SAC/SSSI catchment area is a major contributor to the phosphate levels in the river.
- 6.30 Additional foul drainage discharge from the site, which is not appropriately mitigated, would therefore adversely impact on the SAC as it would pass through the sewage treatment works within the catchment area of the River Mease SAC and contribute to the raised phosphate levels in the river.
- 6.31 It is accepted that some form of mitigation is required in respect of the proposals and this is covered in detail in the separate River Mease/Drainage Statement that accompanies the application.
- 6.32 Subject to the mitigation measures set out, it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and LP Policy SD3 and BNE3.

Other matters

- 6.33 The application site does not contain any trees which are protected by a Tree Preservation Order and the site is not located in a Conservation Area. There are no trees on the application site that would be affected by the proposed development.
- 6.34 The site lies within Flood Zone 1 (which has the lowest risk of flooding) and is at a low risk of being impacted by surface water flooding as defined on the Environment Agency's Surface Water Flood Maps (see Appendix 2). Surface water drainage would be dealt with by use of a Soakway. Foul drainage matters are covered in a separate River Mease/Drainage Statement.

7.0 CONCLUSIONS

- 7.1 At the heart of the NPPF is a presumption in favour of sustainable development such that development proposals that are in accordance with the development plan should be approved. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Section S38(6) of the Planning and Compensation Act 2004 requires that any decision on a planning application (or appeal) should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 7.2 The proposals represent an efficient use of land located within the identified Limits to Development of a sustainable area within Overseal which is in accordance with the policies of the development plan, the NPPF and the PPG. The proposals are in accordance with the development plan for the reasons set out above and when viewed in their wider context, they make a positive contribution towards each of these three objectives of sustainable development in a mutually supportive way.
- 7.3 In conclusion, the proposal is in accordance with the relevant policies of the development plan and it is also in accordance with the NPPF taken as a whole and the presumption in favour of sustainable development. There are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal and any outstanding concerns that the Council might have are capable of being addressed by negotiation and/or the imposition of conditions.
- 7.4 In accordance with S38(6) of the Planning & Compensation Act (2004), S70(2) of the Town & Country Planning Act (1990) (As Amended) and the advice throughout the NPPF and PPG, planning permission should be granted in accordance with the terms of the application.

8.0 APPENDICES

Appendix 1 PAA response and submission

From: [James Mattley](#)
To: [James Mattley](#)
Subject: FW: Application ref. DMPP/2021/1783: Acknowledgement of pre-application enquiry
Date: 26 January 2022 08:37:52
Attachments: [image002.png](#)
[image003.png](#)
[image005.png](#)

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From: Richard McMichael <Richard.McMichael@southderbyshire.gov.uk>
Date: Wednesday, 5 January 2022 at 12:14
To: James Mattley <planningjim@gmail.com>
Subject: RE: Application ref. DMPP/2021/1783: Acknowledgement of pre-application enquiry

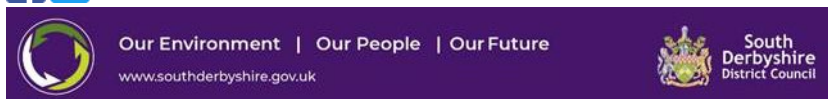
James,

I've looked at this, and I'd say that the principle of development is acceptable due to there being an example of backland development a couple of doors away and more importantly there not being any specific policy wording in the Local Plan that discourages such development.

With regards to designations, the site lies within the River Mearse Catchment Area where a bespoke solution for drainage is required due to there being no capacity left to mitigate the River Mease from foul drainage. It's within low risk areas for contamination and coal mining, so the respective parties shall be consulted. Same goes for consulting Natural England due to being within a SSSI Impact Risk Zone. No other designations apply.

Regards,

Richard McMichael
Planning Officer
www.southderbyshire.gov.uk



From: James Mattley <planningjim@gmail.com>
Date: Tuesday, 30 November 2021 at 13:19
To: Planning Applications <planningapplications@southderbyshire.gov.uk>, "richard.mcmichael@southderbyshire.gov.uk" <richard.mcmichael@southderbyshire.gov.uk>
Subject: Re: Application ref. DMPP/2021/1783: Acknowledgement of pre-application enquiry

Hi Richard/Jess,

Thank you for the acknowledgement letter received yesterday in relation to the pre-application

enquiry at 29 Burton Road, Overseal. I wasn't able to include any text with the PAA that I submitted so I'm following up the submitted plan with this email. I worked as a DC officer for 14 years so I know that everybody is busy dealing with applications so I wanted to set out what I believe to be the main planning issues in order to help progress the PAA.

It seems to me that the main planning issues are as set out below:

Principle of Development

The site is located within the limits to development and in close proximity to a local centre. Occupiers of the dwelling would not be reliant on the private car to reach basic services and there are no objections in principle in relation to the development plan or the NPPF.

Design/Visual Amenity

This type of development is often unacceptable as the character of the area is characterised by frontage development and built development to the rear would not be in keeping with the surrounding area. However, as set out on the submitted drawing, the Local Planning Authority will be aware that there is an existing detached bungalow located in very close proximity to the site. The scheme will be designed to align with the front and rear elevations of the adjacent bungalow to ensure that the development is in keeping with the character of development in the surrounding area.

Highway Safety

It is proposed to access the site off Burton Road by demolishing the existing garage. Measurements of the available width are supplied on the submitted drawing and it is hoped that the LPA can consult with the CHA at this stage in order to ascertain their comments regarding the acceptability of the access arrangements. It is believed that suitable visibility splays can be provided and pedestrian visibility splays can also be improved at the site frontage by reducing the height of the existing wall. It is accepted that the new access drive down to the new dwelling would not be able to meet the required width (as suggested by CHA guidance) on a short section next to the existing dwelling but this would be for a short section and would not cause any harm to highway safety,

Impacts on Residential Amenities

The dwelling would be single storey and set in from the boundary with the adjacent dwellings. It is noted that the adjacent dwellings have long rear gardens. Given this relationship it is not considered that the proposed bungalow would result in any significant overlooking, overbearing or overshadowing impacts.

Concern is sometimes expressed regarding vehicle movements running in close proximity to rear gardens. However, at the previous LPA that I worked for we took the approach that the vehicle movements associated with a single dwelling would not be significant particular in the context of the number of vehicle movements along Burton Road. In addition, the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered to be a yardstick for an acceptable standard in an appeal decision at Ashby de la Zouch (07/00624/OUT) and which occurs elsewhere in Overseal. I've included a copy of that appeal decision. Clearly we would be willing to improve the standard and height of the existing boundary fencing to limit any issues of noise and disturbance to surrounding properties.

River Mease

I'm aware of the issues with the River Mease which would prevent any new dwellings connecting to the mains sewer prior to a new developer contribution scheme being entered into (which could be around 12 months away). I'm also aware that SDDC have allowed temporary non-mains drainage subject to a legal agreement that would require this to be removed and the drainage connected to the main sewer once a new developer contribution scheme had been entered into. In this respect, we would be suggesting a temporary non-mains drainage approach for this site. Given the size of the site and the need to provide a drainage field a package treatment plant is unlikely to be feasible and, therefore, we would look to supply a temporary septic tank.

I've attached copies of photographs of the site as I'm aware that you are not based in South Derbyshire. If you require any further information then do not hesitate to get in touch.

Kind Regards

James Mattley

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Appendix 2 Flood map for planning



Flood map for planning

Your reference
29 Burton Roa

Location (easting/northing)
429378/315523

Created
26 Jan 2022 8:50

Your selected location is in flood zone 1, an area with a low probability of flooding.

This means:

- you don't need to do a flood risk assessment if your development is smaller than 1 hectare and not affected by other sources of flooding
- you may need to do a flood risk assessment if your development is larger than 1 hectare or affected by other sources of flooding or in an area with critical drainage problems

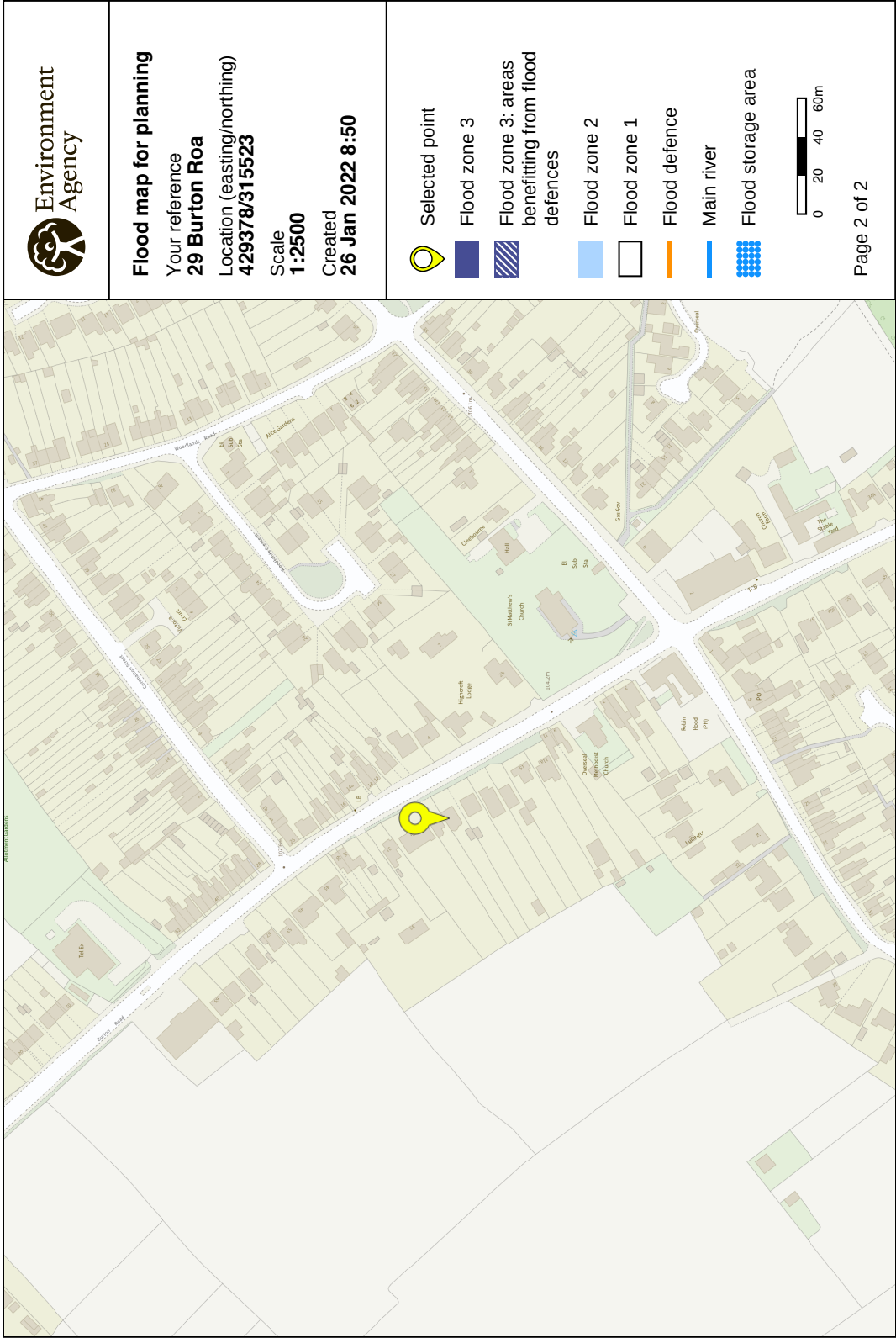
Notes

The flood map for planning shows river and sea flooding data only. It doesn't include other sources of flooding. It is for use in development planning and flood risk assessments.

This information relates to the selected location and is not specific to any property within it. The map is updated regularly and is correct at the time of printing.

Flood risk data is covered by the Open Government Licence which sets out the terms and conditions for using government data. <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

Use of the address and mapping data is subject to Ordnance Survey public viewing terms under Crown copyright and database rights 2021 OS 100024198. <https://flood-map-for-planning.service.gov.uk/os-terms>



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Appendix 3 Photographs of the site

Figure 1



Figure 2



Figure 3



Figure 4



Figure 5



Figure 6



Figure 7



Figure 8



Figure 9



Figure 10



Figure 11



Figure 12



Figure 13



Figure 14



Figure 15



Figure 16





Appeal Decision

Site visit made on 22 April 2008

by **David Ward** BSc(HONS) CEng MICE
FIHT

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
6 May 2008

Appeal Ref: APP/G2435/A/08/2065885/WF

Land to the rear of 59 and 61, Tamworth Road, Ashby-de-la-Zouche, LE65 2PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr J Fisher against the decision of North West Leicestershire District Council.
- The application Ref 07/00624/OUT, dated 20 April 2007, was refused by notice dated 26 July 2007.
- The development proposed is a single storey detached dwelling.

Decision

1. I allow the appeal, and grant planning permission for a single storey detached dwelling on land to the rear of 59 and 61, Tamworth Road, Ashby-de-la-Zouche, LE65 2PX in accordance with the terms of the application, Ref 07/00624/OUT, dated 20 April 2007, and the plans submitted with it, subject to the following conditions:
 - 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 3) Details of the access, appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Main issue

2. The main issues in this appeal are the whether the design would be poor quality, having an unacceptable impact on the character of the locality; and whether the use of the access would cause an unacceptable degree of disturbance for the adjacent residents.

Reasons

3. This appeal follows an appeal¹ dismissed by a colleague of mine. That appeal related to the erection of two bungalows on land in the same location as the appeal site. The Inspector rehearsed the policies which apply in the area, and these have not changed, except that policies E5 and H1 are not saved under recent arrangements for continuity of development plans. Policy E5 sought to prevent development on sites of restricted size, and H1 would have prevented development adjoining existing development where it would be significantly detrimental to amenity, and on sites to the rear of existing dwellings where the access may have had detrimental impacts, or formed tandem development.
4. Policies E3 and E4 are still extant, and require development to respect the amenity of neighbouring residents, and the character of its surroundings. Policy H7 requires good quality design in a number of respects set out in the policy. I have also given appropriate weight to the advice of Planning Policy Statement (PPS)3 – Housing, and in particular the advice on design quality in paragraph 16, and the need to make effective and efficient use of land.
5. The Inspector thought that whilst that proposal would conflict with the spacious pattern and grain of development in the locality, it may be possible to achieve some modest single storey development on the site. He also concluded that the use of the access and parking and turning areas would lead to noise intrusion in the relatively peaceful gardens of Nos 61 and 63 Tamworth Road and the back garden of one of the dwellings in Castle Way. I do not consider that the omission of policies E5 and H1 from the development plan would have led to a different conclusion.
6. The proposal is now for a single storey dwelling. No matters normally reserved under an outline application are presented for permission now. However, detailed plans are submitted of the dwelling, and a layout plan shows the proposed access and the position of the proposed dwelling. Paragraph 44 of Circular 11/95 states that unless it has been indicated formally that these are not part of the application, they must be treated as part of the development for which application is being made. However, the application states in the description of the development that the dwelling is to be single storey, whereas the plans are for a two storey building, with two bedrooms, bathroom, en-suite bathroom and study landing included in the roof space above the ground floor. This is inconsistent with the application, and I shall therefore discount the plans showing the design of the dwelling. The layout however is not inconsistent, and is not marked as illustrative. I shall take it that permission is sought for the access and layout of the site, in accordance with that plan.
7. I consider first the issue of the effect on the character of the area. Policy H7 requires that consideration is given to local character and distinctiveness. There are no policy statements which identify particular distinctiveness of the appeal locality, such as might be found in a Conservation Area, nor is the locality as a whole identified as having distinctiveness. In my view the pattern of development in which the site stands is that which might be found in many residential areas. At its rear there is a spaciousness to which my colleague gave some weight as it contributed to views from Tamworth Road. However

¹ APP/G2435/A/06/2027809

perception of that characteristic in the representations made is essentially a private view shared by a limited number of people, rather than one which should be respected in the public interest, since there is limited perception of the space from public points. Indeed, the locations at which the space might be perceptible in Castle Way are themselves densely developed residential areas.

8. On a wider assessment, the character of the area as perceived on Tamworth Road has a spaciousness which would be largely unaffected by the addition of the appeal proposal. A single storey dwelling is unlikely to be prominent in any important public view point. I agree with my colleague that the insertion of a single dwelling on the appeal site could be undertaken without undue detriment to local character and distinctiveness. The density of development would remain comparatively low, and it is my view that the proposal would respect local character and distinctiveness, and thus meet the test set by policy, and the similar requirements set out in PPS 1 and 3.
9. Turning to the matter of the effect on the amenities of neighbours, the principal issues are the effect on the enjoyment of the rear garden of No 63, Tamworth Road, and the remaining rear garden of 61 Tamworth Road. The policies require that there should be no significant detriment to amenity. The Council consider that the use of a driveway would be of detriment to the adjoining occupiers. There can be no doubt that such change as might take place would be of detriment to those who enjoy seclusion within their gardens, and I have noted their strongly held objections.
10. Nevertheless, the policy only indicates refusal where the detriment would be significant. That implies some yardstick of what might be normally acceptable, and in technical terms such yardsticks may be found in Planning Policy Statements and other nationally accepted policies. However, development widely acceptable elsewhere may also provide a yardstick, as well as the weight my colleague gave to the peacefulness of the rear area.
11. In this respect, examples are given by the Appellant. Whilst not all of these may be appropriate comparisons, there are very many developments throughout the country on corner sites where the side road will be permitted to run close to the side of rear gardens, and that side road may commonly serve tens or a hundred houses. Locally, short rear gardens of modern dwellings abut the lane leading to Castle Way, which is a moderately trafficked road. I take these to be yardsticks of an acceptable standard to be maintained in the public interest. The analysis given by the Council of the amount of use of the access and turning area confirms my view that the gardens either side of the appeal site would retain an acceptable degree of peacefulness.
12. In my view the effect of the appeal proposal on the amenity of neighbours due to the use of the access whilst not negligible, would not be significantly detrimental to amenity.
13. I do not consider that the proximity of the proposed dwelling to houses in Castle Way would be a matter of concern. A separation of about 9m between flank walls would be achieved, and 12m between houses. This compares with much closer spacing between houses in Castle Way.

14. I have carefully considered whether a single storey dwelling in the location shown on the application plan would lead to overlooking of dwellings in Castle Way. Given that the application is in outline, there is nothing which leads me to the view that harm would be inevitable, and could not be controlled at the detailed design stage.
15. I have noted all other matters raised in objection to the proposal. In my view none are of such significance that they outweigh my conclusions on the main issues.

Conditions

16. The Council suggest five conditions which are not commented upon by the Appellant. Conditions 1 and 2 are standard conditions relating to an outline approval. The approval I shall give approves the layout shown on the plans. Further detail would be necessary of the means of access. Condition 3 requires prior approval by the planning authority of drainage works. As long as the controls given by the Building Regulations are applied, there is no evidence of any planning issue relating to drainage. In my view the condition is unnecessary. Condition 4 requires precise details of ground levels to be supplied. In my view detailed plans which did not indicate these matters would be inadequate, and could be rejected. A development which did not accord with approved plans would be unauthorised. The condition therefore appears unnecessary. Similarly condition 5 would repeat the description given of the development as being single storey. Anything other than a single storey development would not be in accord with the development permitted. The condition is unnecessary.

David Ward
Inspector