
Delegated report Officer: Julie Marson

Application ref. DMPA/2026/0339

The variation of condition no. 2 (approved plans) of permission ref. DMPA/2023/1124 (The erection of a two storey side and rear extension, single storey rear extension and single storey carport) at 179 Main Street, Ticknall, Derby, DE73 7JF

Valid date:	11/03/2026
Consults expired:	09/04/2026
EIA development?	No
Section 106 agreement?	Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

9/787/301: formation of a vehicular access - Approved STC 24.08.1987
9/1287/667: erection of a part two-storey extension to provide a study, a bathroom and an additional bedroom at the rear of the semi-detached house - approved STC 04.02.1988
DMOT/2021/1311: The felling of 4 ash trees - No Objection
DMPA/2023/1124: Erection of a two storey side and rear extension, single storey rear extension and single storey carport - approved STC 26.10.2023
DMOT/2024/1050 Approval of details required by condition 3 of permission ref. DMPA/2023/1124 (The erection of a two storey side and rear extension, single storey rear extension and single storey carport) - approved STC 3.10.2024

Responses to consultations and publicity

No comments received.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 instructs that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

South Derbyshire Local Plan – Part 1
S2 - Presumption in Favour of Sustainable Development
SD1 - Amenity and Environmental Quality
BNE1 - Design Excellence
BNE2 - Heritage Assets
BNE3 - Biodiversity
INF2 - Sustainable Transport

South Derbyshire Local Plan - Part 2
SDT1 - Settlement Boundaries and Development
BNE10 - Heritage

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:
National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

On 10 March 2025 the South Derbyshire Local Plan Part 1 Review was published for its period of formal representations under Regulation 19 (of the Local Plan Regulations) prior to submission to the Secretary of State (The Publication Version). This is the version of the Local Plan that the Council intends to submit for examination, and it is a material consideration in the determination of planning applications.

The weight to be attached to emerging local plans is set out in paragraph 49 of the NPPF.

With regard to paragraph 49a) the plan is at an early stage of preparation having not reached examination. In terms of 49b) there remain unresolved objections to the plan from its Regulation 18 consultation and the comments made under Regulation 19 have been reviewed with unresolved objections which were reported to Environmental and Development Services committee on 6th November 2025. The Local Plan will be submitted in 2026. Although the plan is in general conformity with the NPPF (paragraph 49c) it has been published to benefit from the transition arrangements set out in paragraph 234 of the NPPF, meaning the Local Plan will be examined under the 2023 version of the NPPF. For all these reasons the weight to be attached to policies in the publication version of the Local Plan is low.

Where there is any conflict between policies in the publication version of the Local Plan and existing adopted Local Plan policies the decision should be taken in line with the adopted Local Plan policies.

Paragraphs 50 and 51 of the NPPF are also relevant which clarify that refusals of permission in line with emerging policies will seldom be justified before a plan has been submitted for examination.

Planning considerations

This application seeks to vary or remove conditions attached to a previous approval. The principle of development has therefore been established and hence the following assessment takes into account only the matters which are relevant to the conditions concerned. Taking this into account along with the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- Design of the extensions, and their impact on the streetscene and Ticknall Conservation Area;
- Impacts on neighbour amenity.

Planning assessment

Application Site

The application site comprises of extensions to a semi-detached dwelling within the Ticknall Conservation Area. Located along Main Street, the dwelling is located in a relatively prominent position. It appears as though the dwelling is a historic building which has undergone several alterations throughout the succeeding years - including the raising of the ridge and eaves, as well as a rear extension built in the 1980s. The property is covered by an Article 4 Direction.

Principle and proposal development

An application can be made under Section 73 (s73) of The Town and Country Planning Act 1990 to vary or remove conditions. One of the uses of a s73 application is to seek a minor material amendment. Permission granted under s73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended.

Where a developer makes a s73 application the Local Planning Authority is only able to consider the question of the conditions attached to the planning permission and not the principle. In this respect (a) if the LPA decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant permission accordingly, and (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The application is for the amendment of condition 2 (in accordance with plans) of planning permission DMPA/2023/1124 under section 73 of The Town and Country Planning Act 1990. Whilst this change would be material, it is not considered that the proposed amendment would result in a significantly different development than originally approved and the original description of the development would remain unchanged. The s73 is therefore considered an appropriate planning route for the changes sought and the principle of the development is established by the extant planning permission DMPA/2023/1124 is unquestioned.

The amendment sought is for the increased in length of the car port by approximately 2.5m when compared to the approved plans of the original permission.

The proposal relates to the erection of a two storey side and rear extension, single storey rear extension and single storey carport which was considered acceptable under planning permission DMPA/2023/1124. With the principle of the development established, assessment solely relates to the impact of the changes proposed to that permission.

Design of the extensions, and their impact on the streetscene

The amended design of the proposal has been considered in the context of Policy BNE1, BNE2 and BNE10. Policy BNE1 requires new development to be visually attractive, appropriate and possess a high standard of architectural and landscaping quality. Also, that the impact of development on neighbouring amenity be considered, with parameters for this assessment set out in the Design Guide SPD.

The alterations to the proposal is for the increase in length (extending out) to the car port by approximately 2.5m.

It is considered that the increase in length to the car port is acceptable and is in keeping with the original overall design and materials are still in keeping with the local character and context, thus complying with policy BNE1. With the increase in length to the car port there is an alteration to the layout of the scheme as the car port will now be built up to the boundary retaining wall to the dwelling. With respect to neighbouring amenity, it is considered that due to the separating distances and difference in land levels there would be no significant overlooking above that already assessed under the original scheme.

In terms of the duty to the preserve the character and appearance of the Conservation Area, it is considered that the proposal will not result in harm to the Conservation Area, noting that the Conservation Officer did not object to the host permission or raise concerns in terms of the car port. The increase in size of the car port, is not considered to result in harm as the property retains balance and the car port is subservient to the main dwelling.

Conclusion

The main considerations in this Section 73 application, relate to the design of the scheme with an extended car port. It is considered that the variation under condition 2 (approved plans) would be acceptable in design and heritage terms, subject to a condition that attaches the scheme to the submitted details. The planning application is recommended for approval subject to conditions.

Recommendation

Approve with Conditions

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	05/05/2026
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Report agreed:	06/05/2026
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Authorised officer:	Jenny Blair
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