

Sub-division of residential plot, and erection of one detached dwelling.

Report Item No
A2

9 Grange Close Ashby De La Zouch Leicestershire LE65 2PQ

Application Reference
17/01133/FUL

Applicant:
Mr Nitesh Patel

Date Registered:
2 August 2017

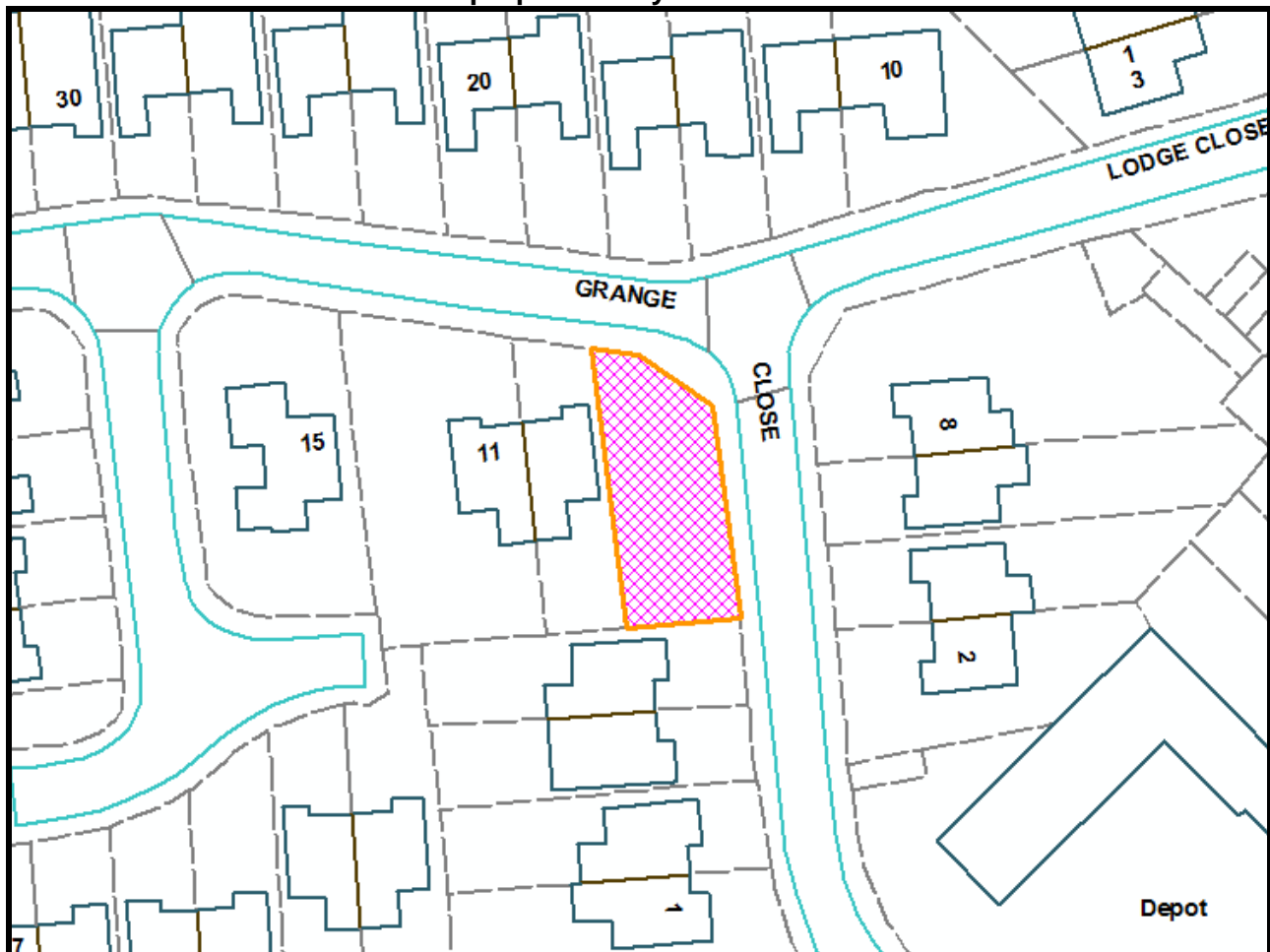
Case Officer:
Eleanor Overton

Consultation Expiry:
5 October 2017
8 Week Date:

Recommendation:
PERMIT subject to S106 Agreement

27 September 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

In accordance with the North West Leicestershire District Council Constitution, the application has been referred to Planning Committee, at the request of Councillor Jones as representations have been received which are contrary to the recommendation to permit the application.

Proposal

This application seeks full planning permission for the sub-division of a residential plot, and erection of one detached dwelling.

Consultations

Members will see from the main report below that there are objections from 6 addresses along with a further objection from Ashby de-la Zouch Town Council. There are no other objections raised by statutory consultees.

Planning Policy

The application site is within the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF, the adopted and submitted Local Plans and other relevant guidance.

Conclusion

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. The proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

The proposed development would be acceptable in terms of layout, scale, design, impact upon residential amenities, highway safety, flood risk and drainage and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. The recent appeal decision for the erection of a building to accommodate two flats on the site, which was dismissed, has been taken into account as a material consideration. This decision does not however raise issues that would result in the proposed application being unacceptable. There are no other relevant material planning considerations that indicate planning permission should not be granted.

Accordingly the application is recommended for planning permission, subject to the imposition of conditions.

RECOMMENDATION:- Permit, subject to the completion of the legal agreement and the imposition of conditions.

MAIN REPORT

1. Proposals and Background

This is an amended scheme for the erection of a detached dwelling, following the refusal and subsequent dismissal of an appeal at the application site for the erection of two, 2 bedroomed flats (17/00034/FUL and APP/G2435/W/17/3171724). The site comprises the side garden of the host dwelling, No.9 Grange Close, Ashby De La Zouch. No. 9 Grange Close comprises a semi-detached, extended dwelling of simplistic design.

The site has an area of approximately 271 square metres and comprises a corner plot. The site is currently host to a single garage, which is to be demolished to facilitate the proposal and also provides an area of hardstanding and an enclosed amenity space. There is an existing pedestrian access part way along the eastern boundary of the site. The site is enclosed by a combination of maintained hedgerow, along its northern boundary, followed by a picket fence and then a 1.8 metre high close boarded fence, which runs for the extent of its eastern boundary.

The submitted plans show a detached, two storey, pitched roofed dwelling, with a forward projecting porch. The layout illustrates a new vehicular access off Grange Close, adjacent to the existing access serving the host property. This would lead to two off road parking spaces and a small amenity area.

The specific details and dimensions are available to view on the submitted plans.

The wider area has a strongly defined and legible residential character; with dwellings being of similar design, form and scale, occupying uniform plot size and consistent front and rear building lines.

The site is within the Limits to Development as identified by Policies S2 of the adopted and submitted Local Plans and lies within the catchment area for the River Mease Special Area of Conservation.

Planning history: -

01/01365/FUL - Erection of a single storey side extension to form a garage - Approved

17/00034/FUL - Demolition of existing garage and erection of detached building to provide two self-contained flats - Refused - 7 March 2017 - Appeal Dismissed.

2. Publicity

17 Neighbours have been notified (Date of last notification 9 August 2017)
Site notice posted (9 August 2017).

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Ashby de-la Zouch Town Council objects to the application.

Severn Trent have provided no comments on the application.

Leicestershire County Council - Highways have provided no comments on the application.

Leicestershire County Council - Flood Management refers to 'Standing Advice'.

NWLDC Environmental Health raises no objections.

Third Party Representations

Six letters of representation have been received. These raise the following issues:-

- o The application is contrary to the decision made by the Planning Inspector who dismissed the previous appeal on the site for a similar development.
- o Concerns over the position of the new driveway, this would be better sited opposite No.4
- o This revised scheme has 'squashed' the proposal, which has compromised the internal room sizes to an unacceptable scale.
- o No reference has been made within the application details that the existing garage is to be demolished.
- o There are concerns over where construction related traffic will park.
- o Ground instability, on the basis that the ground conditions could not support an additional dwelling and may result in structural damage to adjacent dwellings.
- o Grange Close is not able to cater for the additional traffic associated with the proposal, when taking into account the number of additional dwellings built since the Close was first constructed.
- o There will be highway safety implications as a result of the additional traffic associated with the proposal.
- o Drainage concerns in that the existing system may be inadequate and the development may be built over an existing drain.
- o The dwelling would result in over-development of the site and would have a negative impact on the occupants of the neighboring dwellings as a result.
- o The proposal will result in a loss of outlook.
- o The development will have a harmful impact, by way of overlooking on the privacy of surrounding dwellings.
- o The proposal will result in a loss of openness, a loss of view and will make the area feel crowded.
- o The dwelling proposed is not commensurate with the size of the site. The site is too small.
- o The dwelling is out of keeping with the character of the area and would have a negative visual impact on the estate.
- o The development would be at odds with the design and siting of the existing dwellings and adequate separation distances would not be retained.
- o The proposal will result in additional on street parking as no garage has been provided to serve the dwelling.
- o The development does nothing for the local community and cannot be deemed socially necessary.
- o There is no 'need' to provide housing on this site, as major developers are providing for the areas housing needs on other sites.
- o There are concerns that the estate is developing into a "Buy to Let land"

All responses from statutory consultees and third parties are available for Members to view on the planning file.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (NPPF) - March 2012

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development)
Paragraph 28 (Supporting a prosperous rural economy)
Paragraph 49 (Delivering a wide choice of high quality homes)
Paragraph 57 (Requiring good design)
Paragraph 64 (Requiring good design)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

The application site is within Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S2- Limits to Development
Policy E3 - Residential Amenities
Policy E4 - Design
Policy H4/1 - Housing Land Release
Policy T8 - Parking
Policy H6 - Housing Density
Policy H7 - Housing Design

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. Examination hearing sessions were held in January and March 2017 and the Council undertook a six week consultation on its Main Modifications from 12 June 2017. The comments received have been considered. The Council's position is that no further changes are required. All of the comments received, together with the Council's response, have been forwarded to the Inspector who will, in due course, advise of the next steps. The weight to be attached by the decision maker to this submitted version (as proposed to be modified) should be in accordance with the approach set out in Paragraph 216 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF."

S1 - Future Housing and Economic Development Needs

S2 - Settlement Hierarchy
D1 - Design of New Development
D2 - Amenity
H6 - House Types and Mix
IF7 - Parking Provision and New Development
EN2 - River Mease Special Area of Conservation
CC2 - Water - Flood Risk
CC3 - Water - Sustainable Drainage Systems

Submission Draft Ashby Neighbourhood Local Plan

The Submission Draft of the Ashby Neighbourhood Local Plan was submitted to the Council on 1 August 2017. The Council has undertaken a six week consultation on the Draft Neighbourhood Plan and will now arrange for an examination. The weight to be attached by the decision maker to this submitted version should be in accordance with the approach set out in Paragraph 216 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF.

Policy S1 - Presumption in favour of sustainable development
Policy S2 - Limits to Development
Policy S4 - Design
Policy TC4 - Residential Development

Other Policies/Guidance

National Planning Practice Guidance - March 2014.
The Good Design Supplementary Planning Document - April 2017.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
River Mease Water Quality Management Plan - August 2011.
River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

5. Assessment

The main issues for consideration in the determination of this application relate to the principle of the development, impacts on character, appearance and design, residential amenities, highway safety, drainage and floodrisk and on the River Mease Special Area of Conservation/SSSI.

Principle

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So

long as a development is consistent with these criteria, in principle the development should be considered acceptable.

The NPPF also requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the submitted Local Plan.

The site is located within Limits to Development, within Policy S2 of the adopted Local Plan where there is a presumption in favour of sustainable development and would also fall within Limits to Development within Policy S2 of the submitted Local Plan and would fall to be considered against Policy S2, which supports significant growth in Ashby and therefore is supportive of infill residential development.

Overall the proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. The proposed scheme is also considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

Character, Appearance and Design

Concerns have been raised that the dwelling proposed is not commensurate with the size of the site, would be out of keeping with the character of the area, would have a negative visual impact and would be at odds with the design and siting of the existing dwellings.

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens.

Paragraph 53 within the National Planning Policy Framework states that Local Planning authorities 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. The need for good design in new residential development is also outlined in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.

Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The pattern of existing residential development in the immediate vicinity of the site is predominantly characterised by properties within linear plots, set back from the road frontage, with parking to the front, and with rear gardens. This character is described by the Inspector within the recent appeal decision on this parcel of land, as being of "relatively consistent scale, design, alignment and spacing of these buildings combine to create a reasonably cohesive street scene" (Para 3).

For the avoidance of doubt, this application is considered to be markedly different to the recent appeal that was dismissed at the site.

The Inspector within the appeal confirmed that the proposed development would harm the character and appearance of the surrounding area due to it being:-

"readily visible development extending markedly beyond the reasonably strong building line established by the two pairs of semi-detached houses immediately to the south of the appeal site. The reduced sense of space and pronounced breaching of this slightly staggered existing building line would result in a visually awkward, somewhat cramped form of development that would sit uncomfortably with and cause harm to the existing street scene". (Para 6)

This application proposes a detached dwelling, as opposed to two flats. The footprint of the dwelling has been considerably reduced in width, resulting in a marginal projection forward of the established building line occupied by dwellings further south. This reduced footprint has resulted in increased separation distances between the built development and the highway edge, to both the north and east, thus maintaining the 'open' feel of the junction. Furthermore, both the front and rear buildings lines of dwellings to the west would be respected. Although the dwelling will continue to occupy a prominent corner plot, on balance, as per the reasons discussed, unlike the original application, the current scheme is not considered to result in a significantly harmful impact in terms of character.

The area is also predominantly characterised by semi-detached properties, although there are the existence of detached properties (such as No. 15 Grange Close), of two storey proportions. This is supported within the appeal decision, at neighbouring No. 9 Grange Close where the Inspector states that:- There are other detached two-storey domestic properties elsewhere nearby, including 15 Grange Close, such that I see no issue with the principle of such development in this broad locality" (Para 5). The scheme for a two storey detached dwelling, with a similar footprint to surrounding properties, is therefore considered acceptable in this case.

Concerns have been raised on grounds of overdevelopment. Whilst the existing plot would be sub-divided, adequate amenity and parking space would be provided for the proposed dwelling as well as being retained for the host dwelling. On the basis that the site could provide the necessary ancillary facilities, the development is not considered to constitute overdevelopment.

Having regard to the size of the site and the character of the surrounding area, it is considered that the proposal to subdivide the plot and erect a dwelling, would represent an efficient use of land in this instance. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the adopted Local Plan.

The roof design, is reflective of neighbouring No. 9 Grange Close and the scheme has incorporated a porch/canopy of a similar design to those found elsewhere on Grange Close. The scheme also proposes to be constructed in matching materials, and overall the design approach is considered to be acceptable.

On balance, the proposed dwelling would be in keeping with the character and appearance of the neighbouring dwellings and would respect the established streetscene, ensuring that a sense of openness is retained. The application is therefore considered to be compliant with Saved Policies H7 and E4 of the adopted Local Plan and Policy D1 of submitted Local Plan.

Impact upon Residential Amenity

Concerns have been raised within the letters of representation on grounds of overdevelopment, loss of outlook, loss of privacy, loss of openness and overshadowing.

There are windows within all elevations of the dwelling proposed, however those within the western elevation and the first floor window within the eastern elevation serve non-habitable rooms and are thus not considered to result in any material harm in terms of privacy.

There would be a distance of approximately 24 metres between the eastern elevation of the proposal and the principal elevations of numbers 6 and 8 Grange Close. Given the position of the windows within the facing elevations, there would be no direct overlooking and the presence of the highway and the considerable separation distance would render this relationship acceptable.

There would be a distance of approximately 23 metres between the northern elevation of the proposal and the facing dwelling on the opposite side of Grange Close. Given that the elevations would be staggered, there would be no direct overlooking into principal rooms. Furthermore as a result of the separation distance and the presence of the highway between, this relationship is considered acceptable.

The distance between the rear elevation of the proposal and the side gable of the dwelling at No. 7 Grange Close to the south would be just under 12 metres. There is a first floor window within this facing elevation, however this appears to be a secondary window. Although the first floor facing window within the proposed development would serve two bedrooms, given that they would have views towards a secondary window and would not be positioned directly in line with this, impacts in terms of privacy are, on balance are considered acceptable.

Although there would only be a distance of 1 metre between the gables of the host property and the proposed dwelling, such a relationship is commonplace on residential developments and thus is considered acceptable and would not cause any overbearing impacts.

The proposal would project slightly further back than that of the rear elevation of No.9.

Paragraph 13.7 within the Good Design SPD refers to the forty five degree ruling stating "New development next to an existing residential property should not normally project beyond a 45 degree line taken from the centre line of the nearest habitable window of any adjacent house."

The dwelling has been carefully designed to ensure it does not breach the 45 degree line and as such there are considered to be no materially harmful impacts arising in terms of overshadowing.

For the reasons set out above it is therefore considered that the proposal would not result in any significant overlooking, overshadowing or overbearing impacts, upon the occupiers of No's 9 and 7 Grange Close and given the separation distances, it is not considered that there would be any other residential properties significantly impacted upon as a result of the proposal.

Overall, it is considered that the development would not have any significant detrimental impacts upon the amenity of neighbouring residential properties (or future neighbouring residents) and the proposal is considered to be acceptable in relation to Saved Policy E3 of the adopted Local Plan and D2 of the submitted Local Plan.

Highway Considerations

A number of objections have been raised on highway safety and parking grounds. It is stated that the area is heavily congested with parked vehicles and this situation will be worsened by the fact that the proposal fails to provide a garage.

The scheme proposes a new access and driveway for the new dwelling. Grange Close is an unclassified road and therefore planning permission would not be required for the creation of a new access.

The new dwelling proposes 2 car parking spaces and the same number of spaces can be provided within the front driveway of the host dwelling (No. 9). The level of parking is therefore in accordance with the standards.

It has been suggested within the letters of representation that Grange Close is not able to cater for the additional traffic associated with the proposal, when taking into account the number of additional dwellings built since the Close was first constructed and that the traffic would result in highway safety issues.

Whilst it is accepted the proposed development would result in a further increase in vehicles within the area, when considered in relation to the existing situation (in terms of congestion and on street parking) the impacts directly associated with this development would be negligible and could not sustain a reason for refusal.

A number of concerns have also been raised in regards to the unsuitable siting of the proposed access. Similarly, whilst this is noted, although its position may not be ideal, given that it is onto an unclassified road, it is not subject to County Highway Authority control.

Queries over the parking arrangements for the construction related traffic have also been raised. Given that the development is for one dwelling, it is not considered reasonable or necessary to impose a condition to control the parking of construction related traffic.

Overall subject to the imposition of a condition in relation to the parking provision, it is considered that the development would not have any significant impact upon highway safety or parking provision and the scheme is acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan and Policy IF7 of submitted Local Plan.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

There is no capacity available under DCS1 and so DCS2 was adopted by the Council on 20 September 2016.

The average volume to mains from 3 bedroomed property is 278.4, based on Table F4 of DCS2 calculations and a contribution under the DCS is applicable. A Unilateral Undertaking is required to be undertaken to secure the contribution. The applicant has indicated they are willing to pay the required DCS2 contribution and the Council's solicitors have been instructed.

The flows from the dwelling needs to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1444) and a further 390 which have subsequently been granted permission or have a resolution to permit in place, giving capacity for 1534 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

With regards to the surface water drainage, the Authority seeks that surface water should be discharged to a soakaway(s) or other sustainable drainage features which do not discharge to the mains. This development is proposing to discharge all surface water to a precast concrete soakaway within the rear garden of the proposal or to an attenuation tank beneath the southern parking area. As no specific details have been provided for these features, it is considered necessary to impose a planning condition to secure such.

Therefore it can be ascertained, subject to the legal agreement and recommended planning conditions, that the proposal on the site will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Drainage and Floodrisk

Drainage concerns have been raised within the letters of representation, suggesting that the existing system may be inadequate and the development may be built over an existing drain.

The site is located in Flood Zone 1 and is 'low risk' for surface water flooding.

Leicestershire County Council Flood Management have raised no objections to the development, referring to 'Standing Advice.'

No concerns have been raised by Statutory Consultees to suggest that the drainage system may not be able to cater for the development in question. In relation to the concern over the potential siting of the development over an existing drain, this will be dealt with under Buildings Regulations.

Other Matters

Issues raised within the letters of neighbour representation, not considered elsewhere within this report will be addressed below:-

Concerns have been raised that this revised scheme has 'squashed' the proposal, which has compromised the internal room sizes to an unacceptable scale. The sizes of internal rooms do not constitute a material planning consideration and therefore cannot influence the decision making process.

It has been stated that no reference has been made within the application details that the

existing garage is to be demolished. The existing garage has been denoted on the plans submitted with the application, however its demolition would not in itself require planning permission, so it would not specifically need to be referred to within the description of the development.

Concerns in relation to ground instability have been raised. Construction related implications of a development are not considered within the planning process, but are considered under Building Regulations. As such, this concern does not constitute a material planning consideration, and will therefore not influence the decision made.

Concerns have been raised that the estate is developing into a "Buy to Let land". This does not constitute a material planning consideration and will not therefore be taken into account in the decision making process.

Conclusion

In conclusion, the proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. The proposed development would be acceptable in terms of layout, scale, design, impact upon residential amenities, highway safety, flood risk and drainage and impact on the River Mease SAC/SSSI. As such, the integrity of the River Mease SAC would be preserved in accordance with Paragraph 118 of the National Planning Policy Framework and the 2010 Habitats Regulations and Circular 06/05.

There are no other relevant material planning considerations that indicate planning permission should not be granted.

Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions and the completion of a S106 Legal Agreement.

RECOMMENDATION - PERMIT, subject to conditions in relation to the following: and the completion of a Section 106 legal agreement:

1. Timescale
2. Approved Plans
3. Finished Floor Levels
4. Materials Samples
5. Car Parking Spaces
6. Surfacing
7. Drainage
8. PD Removal