

Erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, to install solar panels to the roofs of the four bungalows and amend boundary treatments and soft landscaping

**Report Item No
A5**

**Site At Staley Avenue Ashby De La Zouch Leicestershire LE65
2PP**

**Application Reference
18/00043/VCU**

**Applicant:
Sarah Robinson**

**Date Registered:
16 January 2018**

**Case Officer:
Jenny Davies**

Consultation Expiry:

11 April 2018

8 Week Date:

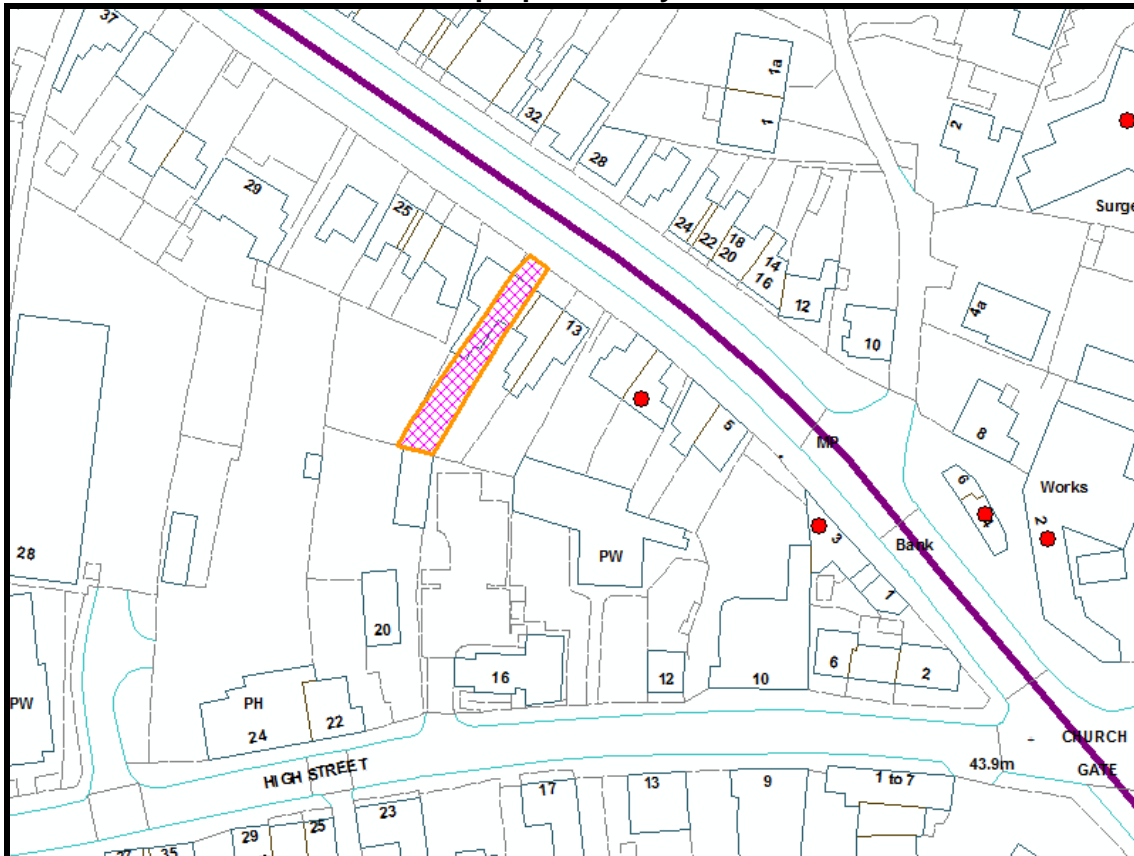
13 March 2018

**Recommendation:
PERMIT**

Extension of Time:

11 April 2018

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Reason for Call In

The application is reported to the Planning Committee as the application has been submitted by the Council for its own development and objections have been received.

Proposal

Permission is sought for the erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, install solar panels to the roofs of the four bungalows and amend boundary treatments, on land at Staley Avenue, Ashby de la Zouch.

Consultations

Members will see from the main report below that there are objections raised from surrounding neighbours.

There are no objections raised from statutory consultees.

Planning Policy

The application site is located within Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The principle of residential development is already established and cannot be reconsidered by the application. The key issues arising from the amended application details are:

- Design and impact on the character and visual amenities of the area
- Impact on surrounding residents
- Impact on ecology

The site boundary and layout is identical to that which has already been approved. The dwellings would have the same design as approved save for the removal of a side window to Plot 4 and installation of a sun pipe to Plot 4 and solar panels to all four dwellings. Details of boundary treatments are also provided. Matters relating to hedgehogs are currently under consideration and will be reported on the Update Sheet. Maintenance of fences and trees are not material planning considerations.

The report looks into the key planning issues in detail, and officers conclude that the details are satisfactory. The detailed scheme meets the requirements of relevant NWLDC policies, including the adopted Good Design for North West Leicestershire SPD.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Permission is sought for the erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, install solar panels to the roofs of the four bungalows and amend boundary treatments, on land at Staley Avenue, Ashby de la Zouch.

Condition 2 relates to the approved plans, condition 4 to boundary treatments and condition 10 to removal of permitted development rights. The original proposal for the site (16/01224/FUL) received a resolution to permit at Planning Committee on 10 January 2017 and the decision notice was issued on 31 January 2017.

The side kitchen window to No. 4 would no longer form part of the dwelling's design, and a sun pipe to serve the kitchen would be installed in No. 4's side roofslope. Solar panels (measuring 1.5 metres by 2.4 metres) are proposed to one roofslope on each of the four dwellings.

The boundary treatment with No. 14 Willesley Gardens has been removed to facilitate construction of Plot 4, and a 2.1 metre high close boarded high fence will be erected in its place. New 2.1 metre high close boarded fences (1.8 metres high with 300mm of trellis on top) are proposed to the boundaries with No. 16 Willesley Gardens and Nos. 12, 13, 14 and 15 Wells Road, and part of the boundary with No. 1 Baker Avenue. The existing fencing along these boundaries would remain in place, with the new fences being erected alongside the existing fencing. The treatments to the remainder of the boundary with No. 1 Baker Avenue, and the boundary with No. 39 Staley Avenue, will remain as existing.

The site lies within the catchment area of the River Mease Special Area of Conservation and is within the Limits to Development as set out in the adopted North West Leicestershire Local Plan (2017).

2. Publicity

11 Neighbours have been notified.
Site Notice displayed 25 January 2018.

3. Summary of Consultations and Representations Received

Statutory Consultees

Ashby de la Zouch Town Council supports the application.

The County Ecologist (Leicestershire County Council) has no objections or comments.

The Council's Environmental Protection team has no environmental observations.

The Lead Local Flood Authority (Leicestershire County Council) has no comments.

Third Party Representations

Five letters of representation have been received which object on the following grounds:

Boundary Treatments

- not clear whether all existing boundary fencing would be replaced;
- existing boundary fence to No. 13 Wells Road should remain in place;
- if existing boundary fencing would be replaced, then concerns about new fencing being less strong and less secure, responsibilities for maintenance, replacement of damaged panels, access to the site for maintenance, damage to garden and provision of holes in the fence for access for hedgehogs;
- if existing fencing is to be retained, then concerns about impact of changes in land levels on the site, obstruction of existing hedgehog holes and access for maintenance;
- is it expected that existing fence would be dismantled if new fencing erected, and would permission be given for dismantling of existing fence;
- 1.5 metre high fencing with trellis on top would result in overlooking of gardens, and new fencing should therefore be 1.8 metres high;
- ecological assessor recognised use of site and adjacent garden by hedgehogs (which are an endangered species) and recommended steps to safeguard hedgehogs during construction and maintenance of hedgehog holes in fencing;

Solar Panels

- impact on visual amenities;
- impact on outlook from existing dwelling;
- solar panel to Plot 4 should be repositioned so isn't affected by shading from existing trees;
- bungalows should have similar roof materials to existing dwellings, as solar panels were not installed to existing dwellings when their roof tiles were replaced;

Other Matters

- overlooking from side and rear window to Plot 4 looking into adjacent garden and bedroom;
- side window not required and could be replaced with a rooflight;
- use of standard street lighting would be intolerable;
- development has made it difficult to prune an existing tree.

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

4. Relevant Planning Policy

National Planning Policy Framework

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

Paragraph 10 (Achieving sustainable development)

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraphs 57, 58, 60, 61 and 64 (Requiring good design)

Paragraph 69 (Promoting healthy communities)

Paragraphs 96 and 98 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 109, 118 and 119 (Conserving and enhancing the natural environment)

Paragraph 203, 204 and 206 (Planning conditions and obligations)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. However, there is nothing in the draft NPPF that would materially change the recommendation made on this application.

Adopted North West Leicestershire Local Plan (2017):

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are relevant to the determination of the application:

D1 - Design of New Development
D2 - Amenity
En1 - Nature Conservation
En2 - River Mease Special Area of Conservation
En3 - The National Forest
Cc1 - Renewable Energy

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 undertook a six week consultation on the Draft Neighbourhood Plan which ended on 11 October 2017. An Examiner has been appointed and the plan is now at 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 S4: Design
Policy NE4: Nature Conservation
Policy NE5: Trees and Hedgerows

Other Guidance

The Community Infrastructure Levy Regulations 2010
The Conservation of Habitats and Species Regulations 2010
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
National Planning Practice Guidance - March 2014
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS) - September 2016
6Cs Design Guide (Leicestershire County Council)
Good Design for North West Leicestershire SPD - April 2017

5. Assessment

The principle of this development has already been established under the extant planning permission (16/01224/FUL). The sole issue in determination of this application is whether the removal of the window and installation of the sun pipe and solar panels and the proposed changes to the boundary treatments would be acceptable. The main issues to consider relate to design and visual impact and impact on residential amenities and ecology.

It is however acknowledged that the solar panels could be installed without planning permission as a form of permitted development, under Part 14, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), once the properties are completed and occupied. However the solar panels are included in the application as the dwellings are not complete and occupied. Furthermore fencing up to two metres in height above ground level could be erected on the site boundaries as permitted development under Class A, Part 2 of the GPDO.

Design and Visual Impact

The changes to the side elevation and roofslope to Plot 4 would be not be visible within the streetscene or locality. The solar panels would be confined to the side roof slopes of the dwellings and would each cover an area of 3.6 square metres. Given their location it is considered that the panels would not impact significantly on the character of the dwellings or the character and visual amenities of the streetscene.

The proposed boundary fencing is typically found on the boundaries between dwellings in residential areas and would not be overly prominent within the streetscene. As such it is considered that the proposal would comply with the provisions of adopted Policies D1 and EN3.

Residential Amenities

The side window to Plot 4 serving its kitchen, which will face towards No. 14 Willesley Gardens, is proposed to be removed to address concerns relating to overlooking of No. 14 and its garden. A sun pipe to No. 4's roofslope is proposed to provide some light to the kitchen. The sun pipe would be small in scale and given its location above the loft space would not result in significant levels of direct overlooking of No. 14 and its garden. A blank elevation would therefore face towards No. 14. The kitchen is also part of an open plan room with the dining room/living room, which is served by Plot 4's rear window which faces south east, as well as an external side door.

The solar panel on Plot 2 would be eight metres from the front windows to Plots 3 and 4, and the solar panel to Plot 3 would face towards an elevation with no windows and a side door to Plot 4. The solar panel to Plot 1 would face directly towards the rear garden to No. 1 Baker Avenue and would be 7.5 metres from No. 1's rear windows. The solar panel to Plot 4 has been repositioned so it faces towards Plot 3, and would be seven metres from Plot 3's side window. Given these circumstances, and that solar panels are generally designed to absorb light and to reduce the amount of reflected light, thereby minimising the potential for glint and glare, it is considered that the solar panels are unlikely to adversely impact on the residential amenities of the occupiers of nearby dwellings.

Given their size and that they would be seen against the backdrop of the roofs to the new dwellings, it is considered that the solar panels would not result in an oppressive outlook or overshadowing to adjacent dwellings.

The replacement fencing to the boundary with No. 14 Willesley Gardens, and the new fencing to other parts of the boundaries, would all be 2.1 metres high above the ground level on which they are sited, which is above the maximum height of two metres allowed in such locations under permitted development rights. However the fencing element would be 1.8 metres high, with 300mm of trellis on top. It is not unusual to find similar forms of fencing forming the boundaries to gardens and dwellings.

As such it is considered that the proposal would not adversely affect the amenities of occupiers of nearby existing dwellings and future occupiers of the proposed dwellings and as such would

comply with the provisions of Policy D2 of the adopted Local Plan.

Ecology

The County Ecologist has not raised any objections to the proposal. A request has been made for the new fencing to the boundary with No. 16 Willesley Gardens to contain holes to allow access for hedgehogs, as per the existing fencing. Therefore the County Ecologist has been consulted in respect of this matter, and their comments will be reported on the Update Sheet.

Other Matters

The position of the rear window to Plot 4 is not being changed under this application and so consideration of the potential for overlooking from this window cannot now be taken into account. However it is noted that Plot 4 is single storey, and that its rear window would be 27 metres from the main rear elevation of No. 15 Wells Road and 23 metres from No. 14 Wells Road.

The applicant has confirmed that whilst land levels are changing across the site to provide level access to the new dwellings, in particular Plot 1, the land levels at the site boundaries would not be changed, and the gardens would be sloped down to meet the previous ground level at the boundaries.

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.

A contribution under DCS2 was secured under the original permission and this contribution has been paid. The proposed changes would not increase the occupation of the dwellings nor increase the level of roofs or hardsurfacing across the site. Therefore it can be ascertained that the proposal 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, and would comply with the Habitat Regulations, the NPPF and Policies EN1 and EN2 of the submitted Local Plan.

The solar panel to Plot 4 has been repositioned to its north eastern roofslope, and so shading from trees is less likely to affect its efficiency. The efficiency of the solar panels is also considered to be an operational matter and not a material planning consideration.

The applicant has advised that no new street lighting is proposed within the development. The site is surrounded by existing residential properties with existing lighting, therefore any new lighting resulting from the development is not considered to give rise to an unacceptable adverse impact in this residential setting.

Matters relating to the maintenance of the existing fencing and trees are not planning matters and are a private matter, and therefore cannot be given any weight in the determination of this application.

Conclusion

The proposed changes would be acceptable in terms of design and impacts on character and visual amenities, and would not adversely impact on residential amenities and the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT subject to the following condition(s):

1. Approved plans
2. Materials
3. Boundary treatments
4. Planting
5. Levels
6. Obscure glass
7. Recycling
8. Removal of permitted development rights
9. Removal of permitted development rights - dormer windows
10. Gradient
11. Construction traffic/site traffic management plan
12. Parking

(subject to no contrary observations by 11 April 2018)