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Erection of two detached dwelling alone with detached garages and associated access works

Report Item No  
A8

30 Clements Gate Diseworth Derby DE74 2QE

Application Reference  
14/00196/FUL

Applicant:  
Mr B Simpson

Date Registered  
10 March 2014

Case Officer:  
Adam Mellor

Target Decision Date  
5 May 2014

Recommendation:  
PERMIT

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Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee as the agent for the application is related to three serving councillors (Caroline Large, Charles Meynell and Richard Blunt).

### Proposal

The application relates to the erection of two two-storey detached dwellings on 0.174 hectares of agricultural land adjacent to No. 30 Clements Gate which lies on the southern side of the street. A new vehicular access into the site would be provided along with relevant off-street parking provision and turning facilities. It is noted that the site is situated outside the defined limits to development as identified in the Local Plan.

### Consultations

As a result of the consultation process two letters objecting to and seven letters supporting the development have been received with Long Whatton and Diseworth Parish Council having no objections in principle to the proposals. All other statutory consultees have no objections subject to appropriate conditions being imposed on any consent granted.

### Planning Policy

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan, the general principles of the National Planning Policy Framework (NPPF) as well as Circular 06/05 and relevant supplementary planning guidance.

### Conclusion

As set out in the main report above, whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Diseworth is a sustainable location for the level of development proposed for this site with it is also being recognised that the housing development would be relatively well related to existing development and as such would not result in isolated housing in the countryside. Taking these matters into account the principle of the development would be acceptable. There would be no conflict with Paragraph 112 of the NPPF given the amount of agricultural land which would be developed upon. The density of the scheme would also not cause significant conflict with Policy H6 of the Local Plan given the overall aims of this policy in achieving acceptable design solutions and retaining existing features of the site such as landscaping.

It is considered that the relationship between the proposed dwellings and the existing properties on Clements Gate and Langley Close would be acceptable and would not cause significant conflict in respect of Policy E3 of the Local Plan.

In respect of the design approach it is considered that the proposed dwellings have drawn upon the positive characteristics of dwellings which exist on Clements Gate, and within Diseworth as a whole, and as such would not impact negatively on the characteristics of the streetscape. The position of the dwellings in relation to the street and the design approach to Plot 2 would also result in a termination of the built environment with no greater encroachment into the open countryside than that established by the Langley Close development opposite and as such there would not be a sufficiently detrimental impact on the openness or appearance of the wider landscape particularly given that Langley Close is at a higher land level. The retention of

existing landscaping also improves the assimilation of the development into the rural environment. As such the proposal would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

The provision of two dwellings would not result in detriment to highway users given that an adequate vehicular access would be provided along with improvements to the carriageway in order to ensure that it is suitable to serve the proposed dwellings. Adequate off-street parking facilities would also be provided to ensure compliance with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

No objection to the development has been received from the County Ecologist and given that the vegetation would be retained it is considered that this would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. A suitable landscaping scheme would also be conditioned on any consent to ensure compliance with the aims of Policies E2 and E7 of the Local Plan. The particulars of any foul and surface water discharge from the site would be agreed with Severn Trent Water and under Building Regulations with any solution agreed being on the basis that it would not exacerbate any localised flooding issue, as such the development would not conflict with Paragraph 103 of the NPPF. It is also considered that the land would not result in land stability issues for neighbouring properties and conditions would be imposed to ensure that the land would be fit for purpose in accordance with Paragraphs 120 and 121 of the NPPF.

It is therefore recommended that the application be approved.

**RECOMMENDATION - APPROVE 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, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of two detached dwellings along with detached garages and associated access works at 30 Clements Gate, Diseworth. The site of 0.17 hectares lies on the southern side of Clements Gate and is situated outside the defined limits to development as identified in the North West Leicestershire Local Plan. To the north of the site lies an affordable housing exception site (named Langley Close) which was granted planning permission in March 2010 under application reference 09/01145/FUL. The surrounding area consists of residential properties to the west, which vary in their type and design, and open countryside to the east.

The land is currently identified as pasture land and it is proposed that a new vehicular access would be formed off the currently unmade part of Clements Gate with an existing vehicular access into the field being closed. It is proposed that two two-storey detached dwellings would be provided which would have the following dimensions: -

#### **Plot 1:**

This property would have a width of 11.0 metres by 8.6 metres in length and use of a pitched gable ended roof with an eaves height of 5.5 metres and overall height of 9.3 metres. It is indicated on the floor plans that the dwelling would provide a lounge, dining area, breakfast/kitchen area, hall, cloak room, study and utility room at ground floor level and four bedrooms, two en-suites and a bathroom at first floor level for the occupants.

#### **Plot 2:**

This property would have a width of 10.6 metres by an overall length of 8.7 metres and use of a pitched gable ended roof with an eaves height of 5.2 metres and overall height of 8.2 metres. A front projecting two-storey gable would have an overall height of 7.7 metres. It is indicated on the floor plans that the dwelling would provide a lounge, kitchen, utility room, hall, cloak room and dining room at ground floor level and four bedrooms, two en-suites and a bathroom at first floor level for the occupants.

Both properties would be served by detached garages which would have dimensions of 6.0 metres by 6.0 metres and use of pitched gable ended roofs with eaves heights of 2.6 metres and overall heights of 5.2 metres.

A design and access statement and ecology report have been submitted in support of the application.

No previous planning history on the site was found.

### 2. Publicity

10 No neighbours have been notified (date of last notification 25 March 2014)

Site Notice displayed 31 March 2014

Press Notice published 9 April 2014

### 3. Consultations

Clerk To Long Whatton & Diseworth consulted 25 March 2014

County Highway Authority consulted 25 March 2014

Severn Trent Water Limited consulted 25 March 2014  
Head of Environmental Protection consulted 25 March 2014  
LCC ecology consulted 25 March 2014  
LCC/Footpaths consulted 25 March 2014

#### **4. Summary of Representations Received**

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

**Leicestershire County Council - Ecology** has no objections subject to a condition requesting the retention of the boundary hedges.

**Leicestershire County Council - Footpaths** no representation received.

**Leicestershire County Council - Highways** has no objections subject to conditions.

**Long Whatton and Diseworth Parish Council** has no objections although has raised concerns over development outside the defined limits to development as well as the standard of the highway.

**NWLDC - Environmental Protection** has no objections.

**NWLDC - Environmental Protection (Land Contamination)** has no objections subject to the imposition of conditions due to the historic use of the site as clay quarry and clay goods manufacture.

**Severn Trent Water** has no objections.

#### **Third Party Representations**

Two letters of representation have been received from the occupants of No. 6 Langley Close and No. 3 The Green raising concerns to the application for the following reasons:-

- Property in Diseworth is expensive and tends to be large with this impacting on the village as the majority of the pupils attending the village school come from outside of the village;
- Diseworth needs smaller, low-cost dwellings in order to address this increasing imbalance;
- There is a danger of creating a 'precedent' if 'agricultural land' adjoining properties is built upon;
- Allowing dwellings outside the defined limits to development will effect Diseworth as a small village and will make it easier for other developers to expand Diseworth by developing in these areas;
- Development will impact on the view from the front and rear of our property as views of the countryside will be lost.

Seven letters of representation have been received from the occupants of Nos. 4 and 9 Brookside, Nos. 11 and 18 Grimes Gate, 12 Shakespear Close, Paddock House, Chapel Lane, Osgathorpe and an unknown address supporting the application for the following reasons: -

- The proposed development has taken into account the need to use available space for additional homes in the village without impacting on the nature of the village;

- The development will not be intrusive to established houses and the design is in keeping with the older houses in the village;
- The development completes the ends stop to the row of properties on this side of the lane and would match nicely with the completed affordable housing opposite;
- Since the community housing has expanded the village in the direction of the motorway this new proposal would almost infill to match;
- The land is too small to have any agricultural use and the plot is ideal for a small scale development such as that proposed;
- Additional accommodation is required to ensure that community services such as the school, bus service, village hall and pub remain viable;
- The development would be lower than the recent affordable housing scheme opposite the proposed scheme and would not be obtrusive to views of the village from distance;

## 5. Relevant Planning Policy

### National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

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

The NPPF (Para 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.

Paragraph 17 indicates that planning should always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings; and take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

Paragraph 32 outlines that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;

Paragraph 49 outlines that housing applications should be considered in the context of the

presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites;

Paragraph 55 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are a group of smaller settlements, development in one village may support services in a village nearby. Local Planning Authorities should avoid isolated homes in the countryside unless there are special circumstances such as, amongst other things:

Paragraph 57 outlines that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

Paragraph 61 outlines 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, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment;

Paragraph 103 indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere;

Paragraph 112 outlines that Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles;

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

### **North West Leicestershire Local Plan**

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development;

Policy E1 seeks to prevent development within the Sensitive Areas, which would adversely affect or diminish the present open character of such areas;

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees;

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings;

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows;

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements;

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria;

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services;

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing development;

### **Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy;

### **Other Guidance**

#### **6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council**

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters;

#### **Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)**

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should



have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

### **National Planning Practice Guidance**

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied.

## **6. Assessment**

### **Principle and Sustainability**

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)).

In terms of the Local Plan, the site lies outside the Limits to Development, Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of Paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (f) in locations where appropriate in the context of the Local Plan. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF which states that Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Diseworth benefits from a range of local services and is readily accessible via public transport due to its proximity to East Midlands Airport. The proposal for the erection of two new residential properties is, therefore, considered to score reasonably well against the sustainability advice in the NPPF.

Furthermore, it is considered that the development site would be reasonably well related to existing built development along Clements Gate, particularly given the expansion of the settlement following the provision of the affordable housing exception site to the north of the site which expands further into the rural environment than this proposal, and would not result in truly

isolated dwellings in the countryside.

Therefore, taking these factors into account, along with matters of five year housing land supply, it is considered that the principle of residential development on this site would be considered acceptable.

The supporting information outlines that the Ministry of Agriculture, Fisheries and Food (MAFF) Agricultural Land Classification for the land is Grade III which is described as *"land with moderate limitations which affect the choice of crops, timing and type of cultivations, harvesting or the level of yield."* It is considered that the amount of agricultural land retained beyond the site boundaries coupled with the relatively small site area would ensure that the development proposals would not cause conflict with Paragraph 112 of the NPPF.

### **Density**

Policy H6 of the North West Leicestershire Local Plan seeks to permit housing development which is of a type and design to achieve as high a net density as possible taking into account factors such as housing mix, accessibility to centres and design. Policy H6 of the North West Leicestershire Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per hectare elsewhere.

With a site area of 0.174 hectares, the proposed development would have a density of 11.49 dwellings per hectare. Whilst this density would fall significantly below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development, there would be a need to retain and reinforce the landscaping of the site and a suitable housing mix has been achieved, it is considered that the density proposal would represent an efficient use of the land in this instance, which reflects and is in keeping with the character of existing development within this part of Diseworth. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

The fact that the scheme would provide only four bedroom properties would also not justify a refusal of the application under Policy H6 given that only two dwellings are proposed.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed development would be No. 30 Clements Gate, a two-storey link detached property, situated to the west of the site (this property is in the ownership of the applicant) and No. 6 Langley Close, a two-storey detached property, situated to the north-east of the site.

No. 30 contains four windows in its eastern (side) elevation, all of which serve non-habitable rooms, and it is proposed that the western (side) elevation of Plot 1 would be set 3.0 metres from this elevation with no part of Plot 1 extending beyond the northern (front) or southern (rear) elevations of No. 30. In the circumstances that the windows in the eastern (side) elevation of No. 30 serve non-habitable rooms and, in any case, this property is in the ownership of the applicant it is considered that the position of Plot 1 would not impact adversely on the occupants amenities in terms of overbearing or overshadowing impacts. With regards to overlooking impacts it is considered that the windows in the southern (rear) elevation of Plot 1 would not provide a direct view onto the immediate rear amenity area of No. 30 and no windows are proposed in the eastern (side) elevation of Plot 1 which would ensure that there would be no adverse impacts. The relationship between No. 30 and Plot 1 would also be acceptable given

that any views out of the windows on the eastern (side) elevation of No. 30 would be onto the blank western gable of Plot 1 with no direct views onto the immediate rear amenity area and the amount of projection of No. 30 beyond the northern (front) and southern (rear) elevations of Plot 1 is not significant.

The southern (side) elevation of No. 6 Langley Close would be situated 26.0 metres from the northern (front) elevation of Plot 2 and this distance is considered sufficient in ensuring that the development would not have a sufficiently detrimental overbearing or overshadowing impact on the occupant's amenities. No windows exist in the southern (side) elevation of No. 6 and in any case the distance between the elevations would ensure that there would be no detrimental overlooking implications either into or onto the immediate rear amenity area of this property. This distance of No. 6 from Plot 2 would also provide an acceptable relationship between the developments.

A distance of 12.5 metres would exist between the eastern (side) elevation of Plot 1 and the western (side) elevation of Plot 2 with Plot 2 being set slightly further back from Clements Gate than Plot 1. It is considered that this distance and relationship would ensure that any future occupants would not be adversely impacted on in terms of overbearing and overshadowing impacts. With regards to overlooking impacts it is noted that Plot 2 would contain windows at first floor level (serving an en-suite and secondary window to a bedroom) in its western (side) elevation which would provide views towards the immediate rear amenity area of Plot 1. In these circumstances it is proposed that these windows be conditioned to be obscure glazed and have a restricted opening in order to protect future amenities although it is noted that any views, particularly from the secondary bedroom window, would be partially obscured by the presence of the detached garage to Plot 1 which would have an overall height greater than that of the windows.

In terms of the representation raised in respect of the loss of a view it is noted that the right to a view is not a material planning consideration which could be taken into account in an assessment of the application. In any case the development would not be visible in any direct views established from No. 6 Langley Close given that no windows exist in this property's southern (side) elevation.

Overall, therefore, the development would accord with Policy E3 of the Local Plan.

### **Design**

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and 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.

The information provided in support of the application identifies that the land is relatively flat from east to west but falls gradually from north to south. Residential development in the area varies between detached dwellings on the southern side of Clements Gate and semi-detached and terraced properties on the northern side of the street with the majority of properties being two-storey. Clements Gate contains properties which are relatively modern as well as more traditional dwellings, which fall within the Diseworth Conservation Area, and the affordable housing exception scheme also exhibits quality in its external appearance. In summary the positive characteristics of the area are eaves detailing, cills and headers detailing, chimneys, timber framing, stone plinths and the use of brick or render. Dwellings are generally set back

from the highway on the latter part of Clements Gate and parking provision is predominately to the frontages of sites.

The dwellings would be set a similar distance from Clements Gate as No. 30, with Plot 2 being set further back than Plot 1, and this arrangement would ensure that they contribute positively to the appearance of the streetscape by providing a strong street frontage. The retention of the boundary hedges would also incorporate the development into the adjacent rural landscape and would not have the same urbanising impact should the hedges be removed and replaced with fencing. Additional landscaping would also help reinforce and assimilate the development into a natural environment. The adjacent affordable housing exception site has been developed in an 'L' shape in order to try and 'terminate' the development line of the village and the submitted scheme has tried to reflect this 'termination' by Plot 2 having a projecting two-storey gable and detached garage which assists in defining the built and natural environments. Although the provision of the detached garage to the frontage of Plot 2 would lead to the vehicles associated with this dwelling being visible on the streetscape it is considered that this would not be sufficiently detrimental to the visual amenities of the wider area or streetscape to justify a refusal of the application given that the majority of properties on Clements Gate already have vehicular parking to their frontages or within the highway. With regards to the visual implications to the wider area it is noted that tree planting exists along the southern (rear) boundary of the site and the residential scheme at Langley Close, as well as the remaining properties on Clements Gate, to the north of the site are at a higher land level and as such the residential development would be largely screened from any wider views.

Although public footpath L48 would run adjacent to the southern (rear) boundary of the site it is considered that views enjoyed from this footpath would not be adversely impacted due to any view in a northern direction already being impacted on by existing built forms.

In terms of the designs of the individual properties it is considered that they have drawn upon the positive characteristics of properties on Clements Gate and as a result would contribute positively to the character and appearance of the streetscape. This has been achieved by the incorporation of stone plinths, chimneys and timber framing as well as contrasts between brick and render.

Although the materials to be used in the construction of the dwellings have been partially specified in the application forms not all the materials have been noted and as such it is considered that it would be appropriate to condition any planning consent to ensure that samples of the materials to be used are submitted for approval to ensure that appropriate materials are utilised.

Overall the layout, design and scale of the dwellings are considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

### **Highway Safety**

The County Highways Authority has raised no objections to the development subject to conditions being placed on any grant of planning permission. It is considered that although this part of Clements Gate is not 'formal' highway, given its surface, a condition would be imposed on any consent to ensure that the roadway is provided with a suitable surface to provide adequate access for any future occupants with the new access into the site being closer to the 'made-up' part of Clements Gate than the existing access. The highway, and relevant access, is also considered to be of a sufficient width to allow the safe passage of vehicles and to ensure that no vehicle waits in the highway whilst another vehicle exits the site.

In terms of off-street parking requirements it is considered that the detached garages would be of a sufficient size to accommodate a vehicle and additional off-street parking would be provided to the frontage of these structures.

Overall, therefore, the development would not result in detriment to highway users or result in vehicles being parked within the highway and as such the proposal would accord with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

### **Ecology**

The County Council Ecologist has raised no objections to the application on the basis of the findings of the ecology report given that no habitats or species of note were recorded. The boundary hedges are considered to be important due to them providing habitat opportunities and as such a condition would be imposed to ensure that these hedges are retained. Overall, therefore, the development would accord with the aims of Paragraph 118 of the NPPF and Circular 06/05.

### **Landscaping**

The submitted plans indicate that a section of the existing hedgerow on the northern (front) boundary would need to be removed to accommodate the new vehicular access. Given the width of the access drive the amount of hedging removed would not be substantial and an existing access would be closed and the gap in-filled with new hedging along with the retention of the remainder of the hedgerow and the planting of trees. As no specific details on the landscaping have been provided it is considered reasonable to impose a landscaping condition to ensure that native species are planted. In conclusion, however, it is considered that the scheme would retain and provide adequate landscaping to ensure compliance with Policies E2 and E7 of the Local Plan.

### **Other Matters**

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability subject to conditions and given that the site does not fall within the Coal Mining Referral Area it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF.

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water) and as such any issues relating to how surface water run-off would be managed would be addressed at that time, although the application submission indicates that surface water run-off would be directed to a soak-away. In the circumstances that the site is not within a Flood Zone it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would not conflict with Paragraph 103 of the NPPF.

Planning applications are assessed on their own merits and as such the potential that a precedent could be set for similar developments within the surrounding area should the application be approved would not constitute a material consideration in the determination of this particular application. However, it is considered that there would be resistance to any future expansion to the east of the site given that this would be more prominent in the rural landscape than the proposed development, which is largely screened by Langley Close, and as such would cause conflict with Paragraph 17 of the NPPF which outlines that decisions should *"recognise the intrinsic character and beauty of the countryside."*

### **Summary Reasons for Granting Planning Permission**

As set out in the main report above, whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Diseworth is a sustainable location for the level of development proposed for this site with it is also being recognised that the housing development would be relatively well related to existing development and as such would not result in isolated housing in the countryside. Taking these matters into account the principle of the development would be acceptable. There would be no conflict with Paragraph 112 of the NPPF given the amount of agricultural land which would be developed upon. The density of the scheme would also not cause significant conflict with Policy H6 of the Local Plan given the overall aims of this policy in achieving acceptable design solutions and retaining existing features of the site such as landscaping.

It is considered that the relationship between the proposed dwellings and the existing properties on Clements Gate and Langley Close would be acceptable and would not cause significant conflict in respect of Policy E3 of the Local Plan.

In respect of the design approach it is considered that the proposed dwellings have drawn upon the positive characteristics of dwellings which exist on Clements Gate, and within Diseworth as a whole, and as such would not impact negatively on the characteristics of the streetscape. The position of the dwellings in relation to the street and the design approach to Plot 2 would also result in a termination of the built environment with no greater encroachment into the open countryside than that established by the Langley Close development opposite and as such there would not be a sufficiently detrimental impact on the openness or appearance of the wider landscape particularly given that Langley Close is at a higher land level. The retention of existing landscaping also improves the assimilation of the development into the rural environment. As such the proposal would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

The provision of two dwellings would not result in detriment to highway users given that an adequate vehicular access would be provided along with improvements to the carriageway in order to ensure that it is suitable to serve the proposed dwellings. Adequate off-street parking facilities would also be provided to ensure compliance with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

No objection to the development has been received from the County Ecologist and given that the vegetation would be retained it is considered that this would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. A suitable landscaping scheme would also be conditioned on any consent to ensure compliance with the aims of Policies E2 and E7 of the Local Plan. The particulars of any foul and surface water discharge from the site would be agreed with Severn Trent Water and under Building Regulations with any solution agreed being on the basis that it would not exacerbate any localised flooding issue, as such the development would not conflict with Paragraph 103 of the NPPF. It is also considered that the land would not result in land stability issues for neighbouring properties and conditions would be imposed to ensure that the land would be fit for purpose in accordance with Paragraphs 120 and 121 of the NPPF.

It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to the following conditions;**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

*Reason - to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 This development shall be implemented in accordance with the site location plan, topographical study (1:500) and drawing numbers CGD.SEC.002; CGD.PL1.003; CGD.PL1.004; CGD.PL2.005; CGD.PL2.006; CGD.SBR.007 Revision A and CGD.GAR.008, received by the Local Authority on the 10th March 2014, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 3 Notwithstanding the details shown on the approved plans, no development shall commence until a schedule of external materials and brick bonds to be used in the new dwellings and external finishes to render and the window/door units have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - to enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.*

- 4 No development shall commence on site until the positioning and treatment of utility boxes and details of rainwater goods including external finishes have been submitted to and agreed in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - in the interests of neighbouring amenities and the visual amenities of the locality.*

- 5 Notwithstanding the details shown on the approved plans, no development shall commence until detailed drawings of the chimney stacks, eaves/verge detailing and head and cills to the properties have been first submitted to and agreed in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - to enable the Local Planning Authority to retain control over the external appearance as no precise details have been submitted.*

- 6 Notwithstanding the details showed on the approved plans before first occupation/use of the dwellings, hereby approved, a scheme of soft and hard landscaping (including for retention of existing trees and hedgerows) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling unless an alternative implementation programme is first agreed in writing with the Local Planning Authority and once provided shall thereafter be so retained. The

approved hard landscaping scheme shall be provided in full prior to the occupation of any of the dwellings unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be so retained.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity as well as to provide suitable habitat for protected species.*

- 7 No development shall commence until all the existing trees to be retained have been securely fenced off by the erection, to coincide with the canopy of the tree where possible, of a 1.4 metre high protective barrier in accordance with BS 5837:2012. In addition all hedgerows that are to be retained shall be protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow. Within the fenced off areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

*Reason - to ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.*

- 8 Notwithstanding the submitted plans, nor Condition 2 above, before first occupation/use of the dwellings a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

*Reason - to preserve the amenities of the locality, in the interests of highway safety and because insufficient information has been submitted as part of the application.*

- 9 Before first occupation of the development hereby permitted, the carriageway shall be surfaced with tarmacadam from the point at which the tarmacadam surfacing on Clements Gate terminates to a point past the proposed access to the development, in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority.

*Reason - in the interests of highway safety.*

- 10 Before first occupation of the development hereby permitted, a footway shall be provided to the satisfaction of the Highways Authority from the existing footway on Clements Gate to the point of the new access to the proposed development.

*Reason - the highway fronting the site has no separate facility for pedestrians and the proposal would lead to an increase in pedestrian movement along the highway. The footway is therefore required for the safety of pedestrians.*

- 11 Before first occupation of the development hereby permitted the following shall be provided: -
- Visibility splays of 2.4 metres by 43.0 metres shall be provided at the junction of the access with Clements Gate. These shall be in accordance with the standards contained in the current County Council Design Guide;
  - The car parking and turning facilities as shown on drawing number CGD.SBR.007



- Revision A, received by the Local Authority on the 10th March 2014;
- The access drive and turning space shall be surfaced with tarmac, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary;
  - Drainage shall be provided within the site such that surface water does not drain into the Public Highway;
  - The proposed shared private access drive shall be a minimum of 4.25 metres wide with 0.5 metre wide clear margins for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway.
- Once provided the above shall thereafter be so maintained with nothing growing above a height of 0.6 metres above ground level within the visibility splays.

*Reasons - to afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; to reduce the possibility of deleterious materials being deposited in the highway (loose stones etc); to reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users; to ensure vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.*

- 12 The window serving the en-suite and bedroom at first floor level in the western (side) elevation of Plot 2 shall be glazed with obscure glass, to Pilkington Standard 3 or its equivalent, and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so maintained in perpetuity.

*Reason - in the interests of preserving the amenities of neighbouring properties.*

- 13 No development shall commence on site until details of proposed site levels and finished floor levels of the proposed dwellings, which should be related to a fixed datum point off the site, have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details.

*Reason - to determine the scope of the permission and in the interests of residential amenity.*

- 14 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011 + A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
  - BS 8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.  
Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.  
The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.  
If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - to ensure that the land is fit for purpose and to accord with the aims and objectives of Paragraph 120 of the NPPF.*

- 15 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason - to ensure that the land is fit for purpose and to accord with the aims and objectives of Paragraph 120 of the NPPF.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has

- therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 In order to provide the visibility splays detailed in Condition 11 above, it will be necessary to trim the hedge back to and maintain it at the highway boundary.
- 4 The highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -
- For major accesses - see Part 6 of the "6Cs Design Guide" at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg);
  - For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 6 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 7 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.