

Proposed change of use of retail unit and offices to four residential dwellings

Report Item No  
A6

64 High Street Measham Swadlincote Derby

Application Reference  
14/00020/FUL

Applicant:

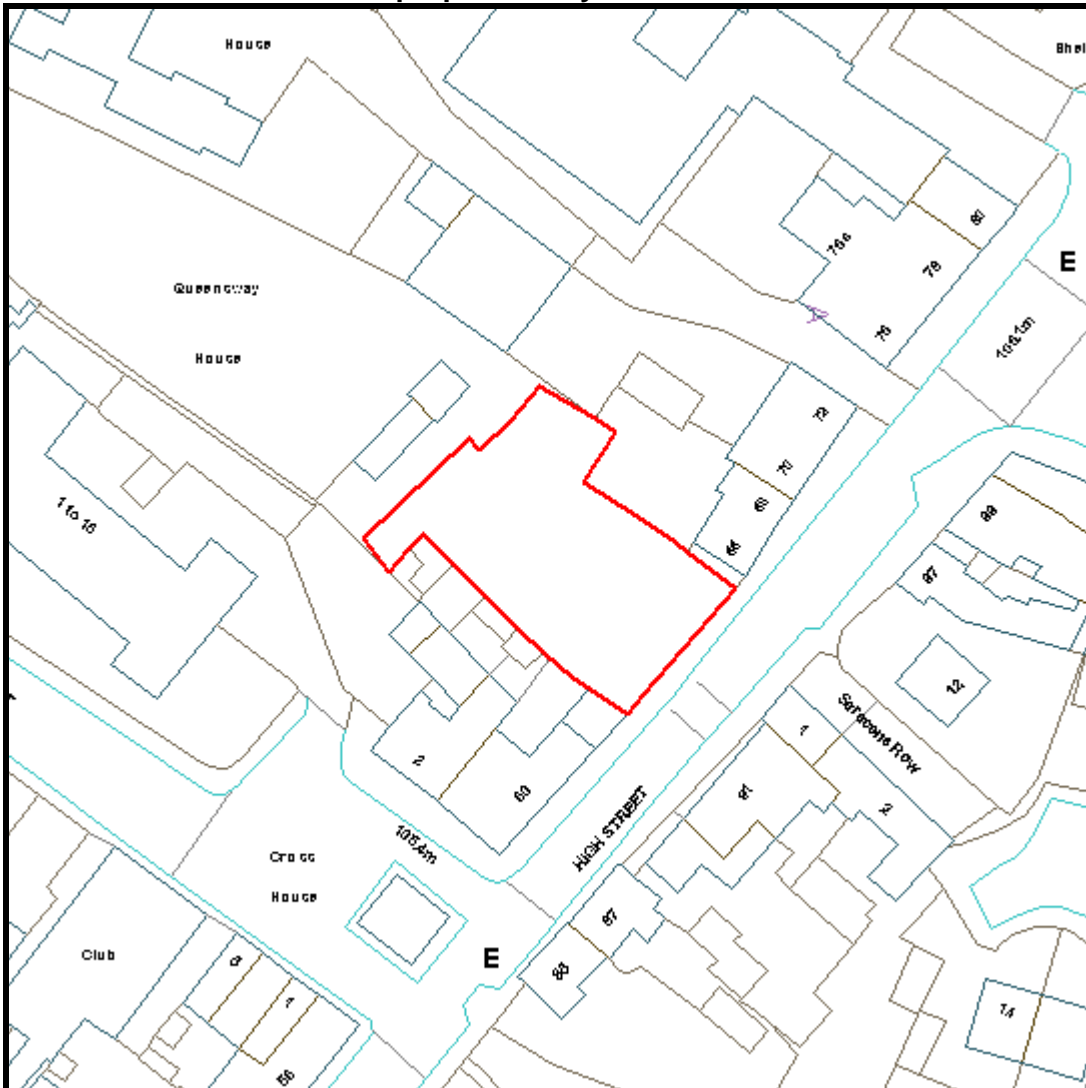
Date Registered  
6 January 2014

Case Officer:  
Joe Mitson

Target Decision Date  
3 March 2014

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

The application has been brought to the Planning Committee at the request of Councillor Neilson as a matter of public concern.

### **Proposal**

The application seeks permission for a change of use of the retail unit and offices into four residential properties.

### **Consultations**

Members will see from the main report below that an objection has been received in respect of the proposals from the Parish Council and concerns raised by occupiers of neighbouring properties; no other objections are raised by the statutory consultees.

### **Planning Policy**

The site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however is the loss of retail units, highway safety, visual and residential amenity.

### **Conclusion**

Although policy R19 seeks to maintain the unit for retail purposes a convincing case has been made to demonstrate such a use is unlikely to recommence. As such a change of use to dwellings, in an area of mixed use, is on balance considered acceptable. The proposals would be visually acceptable and would have a satisfactory relationship with neighbouring properties, subject to conditions. In addition, the objection of the Highway Authority has been overcome and the proposal complies with relevant local and national planning policies.

## **RECOMMENDATION - PERMIT SUBJECT TO THE SIGNING OF A SECTION 106 AGREEMENT AND THE FOLLOWING CONDITION(S).**

**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

The application comprises the change of use of a retail unit and offices to four residential units. Each unit would have accommodation over two floors with a terrace provided at the ground floor. The proposed external alterations would mostly comprise changes to the fenestration to the ground floor front elevation to replace the shop fronts with a door and window for each unit and a covered terrace to the rear. A total of 6 parking spaces, together with turning space and a shared amenity space and bin store would be provided to the rear.

There is no relevant history on the site although the site to the north-west has approval for affordable housing.

### 2. Publicity

25 no. Neighbours have been notified (Date of last notification 16 January 2014)

Site Notice displayed 16 January 2014

Press Notice published 29 January 2014

### 3. Consultations

Measham Parish Council consulted 16 January 2014

Environment Agency consulted 23 April 2014

Natural England consulted 23 April 2014

County Highway Authority consulted 7 April 2014

Severn Trent Water Limited consulted 16 January 2014

Head of Environmental Protection consulted 16 January 2014

NWLDC Conservation Officer consulted 16 January 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.

**Measham Parish Council:** object on the grounds of unsatisfactory access onto High Street, insufficient parking for the dwellings, concerns about access for the construction/alteration of the properties for vehicles and materials and the proposals are not in conformance with the conservation area.

**Highway Authority:** originally objected to the scheme and recommended refusal on the grounds of the access details, the intensification of the use of the access and inadequate parking and turning provision. Following the submission of further information the Highway Authority has lifted the objection and recommends conditional approval.

**Severn Trent Water Ltd.:** no objection subject to a condition.

**NWL Environmental Protection:** no observations.

**Third Party Representations** One letter received raising the following: 66-68 High Street has right of access along the passageway between 64 and 66 High Street. This access needs to be available during building works and after the works have been completed. At the moment the

plans leave the access available to us. The "Site Block Plan" submitted shows the boundary between our properties (to the southeast of the proposed drying area). This appears to be too far to the southeast when compared with the land registry entry for our property.

One letter of concern on the grounds that although some consideration has been given to the overall look of the street the developments shared assembly area is marked on the plan, right up to the boundary, this wall is not a party wall and seeks clarification on the plan for the boundaries, a first floor window on the adjacent property looks onto the development site and do not wish to be overlooked, concerned about cars going in and out with difficult visibility especially close to a pedestrian crossing.

## **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:

- o approve development proposals that accord with statutory plans without delay; and
- o 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.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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.

The sections of the NPPF that are relevant to this application are:

- 4 - Promoting Sustainable Transport through reducing greenhouse gas emissions, achieving sustainable modes of transport, providing safe and suitable access for all and improving the transport network;
- 6 - Delivering a Wide Choice of High Quality Homes through the provision of a mix of housing and being responsive to local circumstances and needs;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 8 - Promoting Healthy Communities through facilitating social interaction and creating healthy, inclusive communities, delivering recreational and cultural facilities and guard against the loss of

valued facilities;

- 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change through reducing greenhouse gas emissions, providing resilience to the impacts of climate change and supporting renewable and low carbon energy;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

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 S2 states that development will be permitted on allocated sites and other land within the Limits to Development where it complies with the policies of the Local Plan.

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.

Policy T3 relates to highway standards.

Policy T8 relates to parking standards.

Policy H6 relate to housing density.

Policy H7 relates to housing design.

Policy R1 relates to central shopping areas.

Policy R16 relates to the use of upper floors.

Policy R19 relates to local centre uses.

**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**

**The Habitat Regulations**

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

**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;

### **River Mease Water Quality Management Plan - August 2011**

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition;

### **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**

The site is located within the Limits to Development and subject to retail policies contained in the Local Plan. Policy S2 accepts the principle of development, policy R16 states supports the use of upper floors for, amongst other things, residential use and policy R19 states ground floor frontages within local shopping centres will only be used for, amongst other things, A2, A3 and D1 provided certain criteria are met.

As such the change of use of the upper floors from office and storage associated with the previous use to residential is acceptable in principle. However, a residential use of the ground floors would be contrary to Policy R19.

To address that issue a letter from Hartley's has been submitted as part of the application. This confirms the estate agents have been involved in the marketing of the property for the established use following formal instructions in November 2012 for sale and letting. No offers for its continued use as commercial premises from either perspective purchasers or potential tenants have been received despite a number of price reductions. The property has been offered via an email launch to over 200 matched applicants of which none have shown any interest. They state there are other vacant and better positioned commercial premises available for rent or purchase in more favourable locations and can only see interest in this part of High Street from home owners or tenants and conclude the property would benefit from the potential development into residential properties.

This part of High Street has a mixed use with some commercial and some residential properties. Although Policy R19 seeks to preserve the retail and commercial use of ground floors in the locality this policy is a number of years old and since the adoption of the Local Plan the economy and the retail sector have changed significantly. The majority of the retail and commercial operations take place further along High Street and this part is not dominated by retail. Furthermore, the unit has been marketed for over a year without any interest for commercial uses and the application is supported by the estate agent who provides an overview of this property and the wider local situation. On balance it is considered a non-retail use can be supported on the ground floor and that the loss of the retail element would not significantly undermine the vitality or viability of the retail centre of the town.

### **Design and Visual Impact**

The building plays a major visual role in the street scene occupying a prominent location on High Street and comprising a significant footprint. The upper floor of the façade has been largely maintained; however, the ground floor has an unsatisfactory shop front. This detracts from the building, street scene and character and appearance of the conservation area. The proposal to remove the shop front and to instate vertical emphasis sash windows with headers

to match those on the upper floors is welcome, subject to a condition relating to the use of matching bricks, bonding, mortar etc. to be used.

The side and rear elevations of the building are less successful with a large flat roof projection at ground floor level. This is to be retained with ground floor terraces added to the rear elevation. However, this part of the building is not easily open to public view and does not detract from the street scene or conservation area. Other than the façade elevation alterations are limited and would not adversely affect the building. An amendment to the access door (on the right hand side of the façade) could be achieved to ensure the door retains the service character of the original. The proposal therefore complies with policy E4. There were no objections to the proposals from the Council's Conservation Officer.

### **Residential Amenity**

The approved use of the building, retailing, has ceased. However, this would have resulted in an impact on the amenity of occupiers of neighbouring properties through noise, disturbance, deliveries and comings and goings. It is considered in terms of use the proposed residential use would be compatible with the surrounding uses.

The façade of the building fronts onto High Street and the properties to the east are separated by the highway and themselves front onto the public highway. To the south there is a dwelling which has a blank gable to the side, a brick boundary wall and an outbuilding running along the boundary. Ground floor windows in the proposed conversion would therefore look towards these walls with little impact on amenity. However, the existing two first floor side facing windows would be maintained with the front most accommodating a bathroom window (which could be obscure glazed) and the second accommodating a bedroom window. This could have oblique views over the neighbouring garden. The Agent has however confirmed that this window could be obscure glazed. A fully obscure glazed window may not be ideal in terms of the amenity of future occupiers of the room as it would be the only window. However, partial obscure glazing to mitigate overlooking could be achieved with clear glazing above which would not overlook the neighbouring site. This could be the subject of a condition on any approval.

To the rear there is a large area of hardstanding that would be retained for parking, turning and shared amenity space. This would ensure a significant area of approximately 20 metres would separate the host building and the rear boundary and further to the first floor rear facing windows. The proposal would not therefore impact upon the approved housing scheme to the rear.

To the north the host dwelling has no boundary between the access from High Street and the neighbouring property. However, no additional openings are proposed on this elevation and the relationship is considered acceptable with rear facing bedroom windows forming a traditional relationship between properties.

Furthermore, the rear shared amenity space, parking and turning area and access would not have an undue adverse impact on the amenities of neighbouring properties. The proposal therefore complies with policy E3.

### **Highway Safety**

The dwellings would be served by the existing vehicular access to the south of the building onto High Street. To the rear the site would provide six parking spaces and a turning area.

The Highway Authority originally recommend refusal on the grounds that the proposal would lead to additional turning traffic using an access onto a 30mph road where the horizontal

alignment and the proximity to neighbouring boundaries are such that visibility is restricted and the turning manoeuvres would be an additional source of danger to road users. The proposal would lead to an intensification of the access that is substandard in width and would be likely to lead to vehicles waiting within the highway in order to enter the site which would affect the free flow of traffic. The access also lacks adequate visibility splays especially for pedestrians. The development would fail to provide appropriate off street parking which could lead to indiscriminate parking on the street which would be detrimental to the free flow of traffic. In addition, the proposal would fail to provide appropriate turning facilities within the site which would be likely to lead to vehicular reversing manoeuvres onto High Street which would lead to additional dangers for highway users.

The Agent was made aware of these issues and submitted a Highway Review of the application. This considered the available visibility splays for vehicles and pedestrians, carried out a swept path analysis of the proposed parking area and calculated trips associated with the consented use and compared this with trips generated by the proposed dwellings.

The report states that, using the 6Cs Design Guide, the available visibility splays of the access are in excess of the minimum required. It notes that the guidance recommends pedestrian visibility splays of 2 metres by 2 metres are provided. Given the position of the buildings this cannot be achieved; however, the report points out that in Manual for Streets regarding visibility along the street edge "the absence of wide visibility splays at private drives will encourage drivers to emerge more cautiously. Consideration should be given to whether this will be appropriate taking into account the following: the frequency of vehicle movements, the amount of pedestrian activity and the width of the footway".

The report argues that the driveway will only serve four dwellings and the frequency of vehicles emerging from the access would be very low; consequently the guidance of Manual for Streets should be taken into account. The available visibility splay is 1.4 metres by 1.4 metres and the report notes this is only slightly below the recommended splays. The report also notes Manual for Streets consider other factors to take into account. These include the speed and volume of traffic on the street and the possibility of vehicles turning around within the property. The report states that given the vehicles can turn around within the site, the low quantum of traffic associated with the development and the grouping together of parking spaces into one access, it is considered the access would operate satisfactorily.

The report states the swept path analysis assessment for the car parking has been carried out using an estate car and this shows the proposed car park layout of 4 bays can be accessed using this vehicle.

The report notes the premises has an approved A1 use which using TRICS could generate up to 62 vehicular trips in the peak hour. This compares with the proposed four dwellings generating a maximum of three vehicular trips in the peak hour. The report concludes that the conversion to residential purposes would provide an overall positive benefit as the traffic flows associated with the proposed use would be much lower than the corresponding vehicular trips associated with the approved retail use.

The Highway Authority has been re-consulted following receipt of this report who state the existing access is substandard in terms of width, visibility and pedestrian visibility. The Highway Authority would normally seek to resist a proposal that could lead to an intensification in use of a substandard access. The report submitted suggests there will be a reduction in the potential for traffic using the access. However, the nature of the access and the difficulties in manoeuvring into it would be very likely to discourage customers of a shop from using it. It is reasonable to



suggest that residents of the proposed dwellings would be much more likely to become familiar with and use the access. The Highway Authority also note that it is likely employees in connection with the retail use of the site would also use the access for parking and the conversion of the upper floor to residential could take place under permitted development rights. The Highway Authority conclude that the change of use is likely to lead to a reduction in disruption caused in the highway by deliveries by HGV's and in general the proposal would be likely to lead to a reduction in traffic and comings and goings. As such their objection is withdrawn and conditions are recommended.

It is considered that, although there are issues with the suitability of the access, a convincing case has been made to demonstrate that the level of use is likely to reduce and overall the proposal would have a benefit in terms of highway safety. As such the proposal is considered to comply with policies T3 and T8.

### **Ecology and Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to Paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage 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 will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. 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 has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at Paragraph 204 of the NPPF.

The proposal comprises a change of use to flats and the foul sewage would be discharged to the public sewer with connection to the existing drainage system. As a result of the change of use and intensification of the residential element foul drainage discharge from the site would significantly increase and the application would be subject to the requirements of the DCS. A legal agreement is proposed for the payment of a contribution in accordance with the DCS, along with the Council's monitoring fee. The applicant has confirmed acceptability of River Mease contributions.

A condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with by separate legislation under the Building Regulations and by Severn Trent Water. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC.

It has not been specified on the application submission how surface water run-off would be

managed and as such a condition would be imposed for this to be agreed given that surface water run-off should utilise an alternative means than the mains sewer.

Natural England has been consulted and advised if the development is undertaken in accordance with the submitted details it is not likely to have a significant effect on the interest features for which the SAC has been classified. The Authority is not therefore required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. Therefore it can be ascertained that the change of use will not, either alone or in combination with other plans or projects, have a 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.

**RECOMMENDATION - PERMIT, subject to the signing of a Section 106 Agreement and the following condition(s);**

- 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 The development shall be built strictly in accordance with the approved plans as follows:  
Drawing no. 00:02, 00:03 and 00:04

*Reason- To determine the scope of this permission.*

- 3 Before development commences the following details shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details:
  - Samples of the bricks to be used;
  - Details of the materials for the lintels and cills;
  - Drawings at a scale of not more than 1:20 providing details of the proposed windows and doors to include profiles, materials (timber to be used) and opening methods and details of the windows set in reveal;
  - Details of the mortar mix and technique and bonding of brick to be demonstrated in a one metre square sample panel;
  - Samples of the tiles to be used.

*Reason: In the interests of visual amenity*

- 4 Notwithstanding the details submitted details of the parking and turning facilities within the site shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved details shall be carried out as approved before first occupation of any dwelling hereby approved and shall thereafter not be obstructed and shall permanently remain available for parking and turning in connection with the use hereby approved. These details shall include 1.5 spaces per dwelling with spaces not less than 2.4 metres by 4.8 metres.

*Reason: 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 and to*

*enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users*

- 5 Any new or replacement windows or doors at ground floor level on the road frontage shall be of a type other than outward opening and shall be so maintained in perpetuity.

*Reason: In the interests of the safety of users of the highway immediately adjacent to the front wall of the building*

- 6 The development hereby approved shall only use the mains sewer for its foul drainage disposal.

*Reason - any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.*

- 7 Before the first occupation of any unit hereby approved details of the partial obscure glazing of the side facing bedroom window in the southern elevation and the full obscure glazing of the bathroom window in the side elevation shall be submitted to and approved in writing by the Local Planning Authority. The part of the window to be obscure glazed shall be glazed with obscure glass equal to or greater than Grade 3 level of privacy from the Pilkington Texture Glass range or the equivalent level provided by an alternative manufacture, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

*Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.*

- 8 Before development commences on the site a landscaping scheme shall first be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The scheme shall have particular regard to the treatment of the site boundaries.

*Reason- to ensure satisfactory landscaping is provided within a reasonable period.*

- 9 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason- to provide a reasonable period for the replacement of any trees.*

- 10 Before development commences on the site a detailed scheme for the boundary treatment of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwelling is occupied.

*Reason- to preserve the amenities of the locality.*

- 11 No development shall commence until the details of the means of drainage for surface water run-off from the site, which shall provide for a non-mains scheme, have first been submitted to and agreed in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved scheme and once provided the drainage scheme shall be retained at all times as per the approved scheme unless otherwise agreed in writing by the District Council.

*Reason - to ensure that the development, either alone or in combination, would not have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of special scientific interest of the River Mease Site of Special Scientific Interest.*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was necessary in this instance. 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).