

Erection of two semi-detached dwellings and associated works (re-submission of 11/00160/FUL)

Report Item No  
A3

15 Ashby Road Donisthorpe Swadlincote Derby

Application Reference  
14/01006/FUL

Applicant:  
Mr Lee Bridges

Date Registered  
7 November 2014

Case Officer:  
Ebony Mattley

Target Decision Date  
2 January 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application falls to be determined by the Planning Committee as the applicant is the son of Councillor Bridges.

### **Proposal**

Planning permission is sought for the erection of two three bed dwellings (semi-detached) between Nos. 13 and 15 Ashby Road.

### **Consultations**

Members will see from the main report below, that there have been no objections from statutory consultees, with one letter of objection from a neighbouring resident.

### **Planning Policy**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

### **Conclusion**

In conclusion, the principle of residential development on this site has already been established by the granting of full planning permission ref: 11/00356/FUL. Since the latest granting of planning permission the NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, or highway safety and would not be likely to 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. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. A unilateral undertaking is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

**RECOMMENDATION:- PERMIT, SUBJECT TO A UNILATERAL UNDERTAKING AND SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of two three bed dwellings (semi-detached) between Nos. 13 and 15 Ashby Road.

The proposed dwellings would occupy a footprint of 7.4 metres in width by a maximum of 13 metres in length. The height of the dwellings to the eaves would be 5.9 metres and a maximum of 11.45 metres to the highest ridge.

The site is currently garden area associated with No.15 Ashby Road, and also includes a drive associated with that property and is located within Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

#### Planning History:-

11/00160/FUL - Erection of two no. semi-detached three bedroom dwellings and associated landscaping - Approved - 09.11.2011.

Outline planning application 06/01813/OUT was made in 2006 for one dwelling adjacent to No.13 Ashby Road which provided for a shared access for the proposed and existing dwelling at No.15 Ashby Road. The application included details of layout, scale, appearance and access. The application was refused on Policy H4/1 sequential approach for housing, design and amenity grounds but the matter was not challenged at appeal.

### 2. Publicity

10 Neighbours have been notified (Date of last notification 14 November 2014)

Site Notice displayed 18 November 2014

### 3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 14 November 2014

County Highway Authority consulted

Environment Agency consulted 14 November 2014

Severn Trent Water Limited consulted 14 November 2014

Head of Environmental Protection consulted 14 November 2014

Natural England consulted 14 November 2014

### 4. Summary of Representations Received

The following summary of representations is provided.

**Leicestershire County Council - Highways** raises no objections, subject to the imposition of conditions.

**Natural England** raise no objections.

**Environment Agency** do not wish to make any formal comment.

**NWLDC Environmental Protection** has no environmental observations.

### **Third Party Representations**

One letter of objection has been received raising the following concerns:-

- o First and floor rear windows will be adversely affected to full light
- o The three storey building will take away any sunlight coming from the south and be 1 metre from the boundary, so any side window will look into the rear bedroom.
- o The modern design is not in keeping with the character of the adjacent properties, and give a slum like appearance.
- o More cars will want parking spaces along Ashby Road and what will happen to the children attending Donsithorpe School or if any emergency services need to get through.

### **5. Relevant Planning Policy**

#### **National Policy Guidance**

The National Planning Policy Framework (NPPF) March 2012  
The Community Infrastructure Levy (CIL) Regulations 2010

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

S2 - Limits to Development  
E3 - Residential Amenities  
E4 - Design  
E7 - Landscaping  
T3 - Highway Standards  
T8 - Parking

#### **Emerging 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**

National Planning Practice Guidance - March 2014.  
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
River Mease Water Quality Management Plan - August 2011.  
River Mease Development Contributions Scheme - November 2012.

### **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle of development, siting and design and impact upon character, impact upon residential amenity, highway considerations and impact upon the River Mease Special Area of Conservation/SSSI.

#### **Principle of Development**

The site is located within the limits to development where the principle of residential

development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

The principle of residential development on this site has already been established by the granting of full planning permission ref: 11/00356/FUL which lapsed on 9 November 2014.

Since the latest granting of planning permission in November 2011 the National Planning Policy Framework (NPPF) has been published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, 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 Donisthorpe benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

### **Siting and Design and Impact upon Character**

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. Paragraph 53 within the National Planning Policy Framework states that Local Planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

The need for good design in new residential development is also outlined in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The pattern of existing residential development in the immediate vicinity of the site is predominantly characterised by dwellings within linear plots, set back from the road frontage with a small garden or driveway, with rear gardens. The area is also characterised by two storey semi-detached properties. The existing built development provides a sense of enclosure to the street and has a clearly recognisable character.

The proposed dwelling is proposed to be sited in a similar, set back position from the highway, to the neighbouring dwellings, within parking proposed to the front, and the layout is therefore characteristic of the surrounding area.

The footprint, is similar to the footprint of neighbouring dwellings, and given that the immediate

area is characterised by 2 storey semi-detached dwellings, it is considered that the 2 storey proportions and semi-detached configuration is considered acceptable in this case.

The submitted plans indicate that amenity space would be provided for the two new units, and that an area of garden would be retained for the existing dwelling at No.15 Ashby Road. Whilst the amenity space associated with that property has been reduced it would remain at an acceptable level.

In respect of design, whilst the overall design is contemporary, the positioning of the door and window openings follow the rhythm of the adjacent late Victorian dwellings to form a harmonious effect within the streetscene.

Overall the proposed development accords with the general siting and scale of existing dwellings within the vicinity, ensuring that the development appears in keeping with the scale and character of existing dwellings and the design approach is considered acceptable.

### **Impact upon Residential Amenity**

The dwellings would be sited in the same position as those approved within the 2011 application ref: 11/00356/FUL. It was previously considered that there would be no significant impacts upon occupiers of neighbouring properties.

In response to the letter of objection, the proposed dwellings would have the outer corners 'cut off' at the rear to ensure that natural light would not be cut off from any side windows of Nos. 13 and 15 Ashby Road. It should be noted that the outlook from the main windows of those properties is to the north east and not towards the application site. The main outlook from the proposed dwellings would also be to the north east. The 'cut off' corners ensure that the bulk of the development is in line with the main bodies of the adjacent dwellings. In addition, the distance separation between the proposed dwellings and the neighbouring properties is similar to that which separates existing dwellings along the street.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

### **Highway Considerations**

The scheme proposes three parking spaces for the two proposed dwelling and two spaces for the host dwelling No. 15 Ashby Road, identical to the arrangement approved within the 2011 application.

The County Highway Authority (CHA) raises no objections, subject to the imposition of planning conditions.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

### **Impact on the River Mease Special Area of Conservation/SSSI**

Since this application was last considered the River Mease SAC Developer Contribution Scheme has now been adopted.

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 application proposes that foul drainage would be dealt with via the mains sewer system. Therefore the proposal will increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS, which needs to be secured in a legal agreement.

A contribution under the River Mease DCS is required but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwellings has not been finalised. The contribution would be based on the provision of two three bedroomed dwellings and dependent upon the code level would cost between £169 and £253, per dwelling. A Unilateral Undertaking would be worded as such to allow flexibility based on the construction code levels.

The flows from the proposed dwellings need to be taken into account against the existing headroom at Donisthorpe Treatment Works. Where there is no existing capacity at the time of determination a condition is proposed which seeks to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works.

Accordingly whilst there is no current capacity at Donisthorpe, in time Severn Trent will facilitate the transfer of some capacity to treatment works (Packington and Snarestone) to create such capacity for 2 dwellings. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

The submitted details confirm that surface water will be disposed of by way of soakway or sustainable drainage system. As surface water should discharge to a soakaway or sustainable drainage system, to ensure that unnecessary water volume does not go to the sewage treatment plant, a condition to this affect is imposed.

Therefore based on the above it can be ascertained that the proposal site would 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.

## **Conclusion**

In conclusion, the principle of residential development on this site has already been established by the granting of full planning permission ref: 11/00356/FUL. Since the latest granting of planning permission the NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, or highway safety and would not be likely to 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. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. A unilateral undertaking is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

**RECOMMENDATION:- Permit, subject to a unilateral undertaking and 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 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: Site Location Plan Drawing No. 3001/SK/013-B; Site Plan Drawing No. 3001/SK/016-C; Front & Rear Elevations Drawing No .3001/SK/011-B; Side Elevations Drawing No. 3001/SK/012-B; Floor Layouts Drawing No. 3001/SK/010-B; Side Sections Drawing No. 3001/SK/015-B and Levels and Foul Drainage Drawing No. 3001/SK/014-D received by the Local Planning Authority on the 7 November 2014.

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

- 3 No development shall commence on site until representative samples of the materials to be used in all external surfaces of the dwellings have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To enable the Local Planning Authority to retain control over the external appearance in the absence of details.*

- 4 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as a detailed scheme for the boundary treatment of the site has been submitted to and agreed in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until such time as the approved scheme has been implemented in full (unless an alternative timescale is first agreed in writing by the Local Planning Authority). Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

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

- 5 Notwithstanding the submitted details or provisions of Condition 2 above, no development shall commence on the site until a landscaping scheme (showing existing planting to be retained and proposed planting) has first been submitted to and agreed in



writing by the Local Planning Authority. The agreed scheme shall be implemented in the first planting and seeding season following either the first implementation of the use hereby permitted unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter in perpetuity, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of any trees.*

- 6 No development shall commence on site until such time as details of:
- a) the means of disposal of surface water from the site to soakaways or other sustainable drainage system; or
  - b) evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer;

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

*Reason - To prevent an adverse impact on the River Mease Special Area of Conservation.*

- 7 The dwellings hereby approved shall not be occupied until Severn Trent Water has stated in writing to the Local Planning Authority that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works or elsewhere within Severn Trent Water's sewer system to take the foul drainage discharge from the dwellings hereby approved.

*Reason - To ensure sufficient capacity is available at the treatment works and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.*

- 8 Before first occupation of any dwellings hereby permitted, any walls, planting or fences at the highway boundary shall be reduced in height and maintained in perpetuity at a maximum of 0.6 metres above the level of the back of the footway. No new walls, planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the back of the footway.

*Reason - In the interests of pedestrian safety.*

- 9 Before first occupation of the dwellings hereby approved, the car parking provision for the two proposed dwellings, and existing dwelling (No. 15 Ashby Road, Donisthorpe) shall be made within the curtilage in accordance with the approved plans Site Plan Drawing No. 3001/SK/016-C received by the Local Planning Authority on 7 November 2014. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

*Reason - To ensure that adequate off-street parking facilities are available.*

- 10 Before first use of the access drive(s)/parking spaces, they shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary (back of footway) and shall

be so maintained at all times.

*Reason - To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)*

- 11 Before first use of the development hereby permitted, the existing gates to the vehicular access shall be removed.

*Reason - To enable vehicles to clear the highway and protect the free and safe passage of traffic, including pedestrians, in the public highway.*

- 12 The gradient of the access drives/parking spaces shall not exceed 1:12 for the first 5 metres behind the Highway boundary (back of footway).

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.*

- 13 No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

*Reason - To enable vehicles to clear the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.*

- 14 The finished ground and floor levels shall be carried out in accordance with 'Levels and Foul Drainage Plan' Drawing No. 3001/SK/014-D received by the Local Planning Authority on 7 November 2014, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority.*

- 15 The windows shown as obscure glazed on 'Floor Layouts' Drawing No. 3001/SK/010-b received by the Local Planning Authority on 7 November 2014 shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

*Reason - To ensure that the development is not detrimental to the privacy and amenities of the neighbouring property.*

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out on the residential units unless planning permission for such development has first been granted by the Local Planning Authority.

*Reason - To ensure that existing standards or privacy and visual amenity are maintained.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in

## PLANNING APPLICATIONS- SECTION A

- 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 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.
  - 3 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.