

Proposed Erection of 2 No. Detached Dwellings, Access & Parking

**Report Item No
A5**

33 Ashby Road Moira Swadlincote Derby DE12 6DJ

**Application Reference
15/00364/FUL**

Applicant:

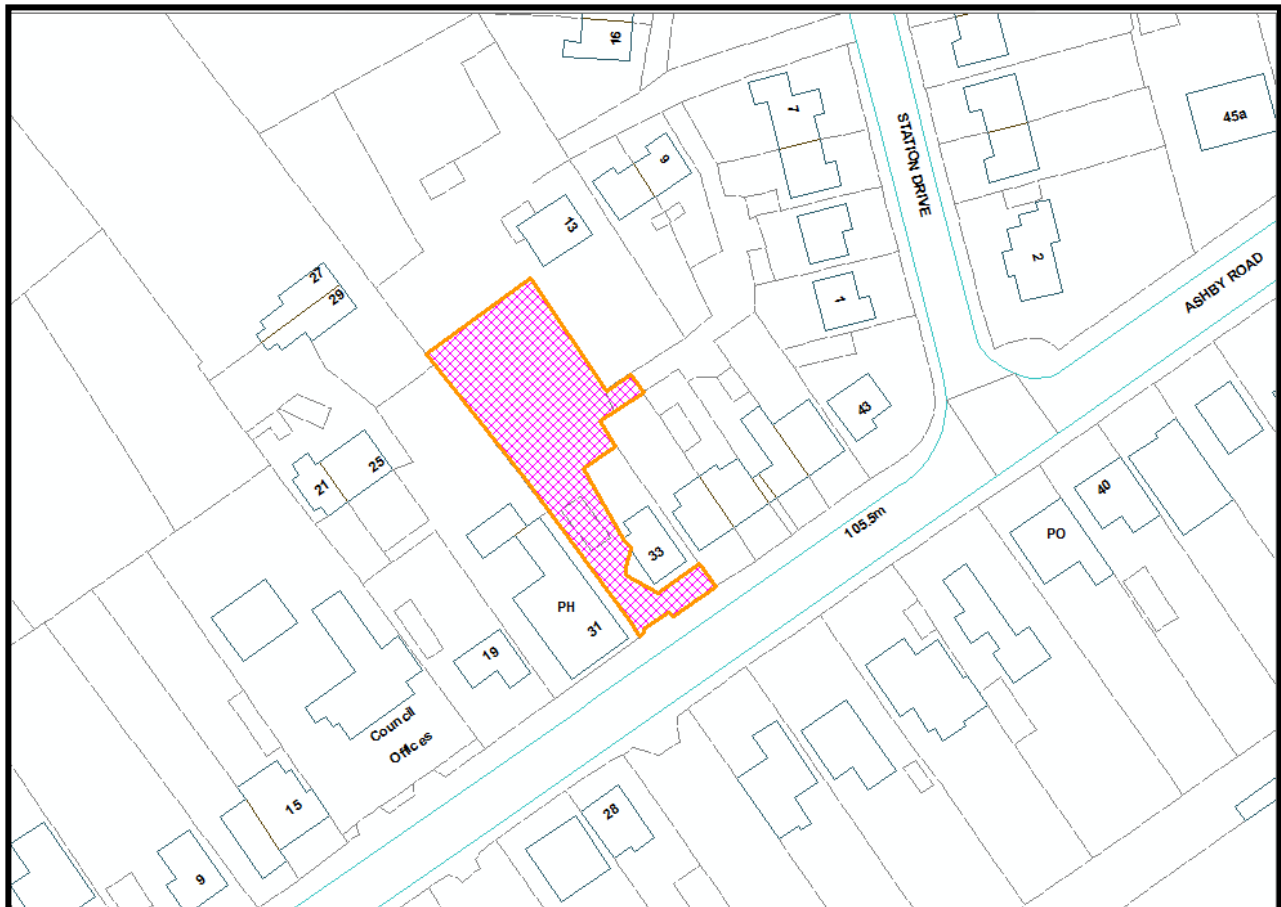
**Date Registered
29 April 2015**

**Case Officer:
Ebony Mattley**

**Target Decision Date
24 June 2015**

**Recommendation:
PERMIT Subject to a Section 106 Agreement**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application has been called in at the request of Councillor John Bridges on the grounds of loss of amenity space, sighting of the dwellings, potential overbearing impacts from the scale, back garden developments that cause a nuisance to the amenity space of neighbours and highway safety grounds.

Proposal

Planning permission is sought for the erection of 2 no. two storey detached dwellings, one of three bed and one of four bed configuration and associated access and parking at land to the rear of No 33 Ashby Road, Moira.

Consultations

Members will see from the main report below that three letters of objection have been received. No objections have been received from any of the statutory bodies consulted upon with the exception of Ashby Woulds Town Council.

Planning Policy

The application site within Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Conclusion

The site lies within Limits to Development where there is a presumption in favour of development subject to all other matters being addressed. 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. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- PERMIT, SUBJECT TO LEGAL AGREEMENT, 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

Planning permission is sought for the erection of 2 no. two storey detached dwellings, access and parking at land to the rear of No 33 Ashby Road, Moira.

In respect of the access, dropped kerbs are to be extended at the existing access from Ashby Road.

During the course of the application, amended plans have been received showing the following alterations:-

- a) Plot 1 has been altered to a 3 bedroomed property with first floor Home Office / Study with 2 parking spaces and plot 2, a 4 bedroomed property has 3 parking spaces.
- b) Reduction in the eaves height to the front elevations and reduced them by 1 brick course, also lowered the main roof pitch to 37.5 degrees.
- c) External chimney stacks have been added.
- d) The proposed landscaping to the frontage of Ashby Road has been removed and the existing hedge shown to be retained between 33 and the neighbouring property.

Re-consultation has been undertaken with neighbouring dwellings.

The site is garden land of No. 33 Ashby Road, Moira and is located within Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Planning History:-

14/00791/FUL - Erection of first floor extension - Approved - 02.10.2014

2. Publicity

5 No Neighbours have been notified (Date of last notification 19 June 2015)

Site Notice displayed 07 May 2015

3. Consultations

Ashby Woulds Town Council consulted 7 May 2015

County Highway Authority consulted 7 May 2015

Head of Environmental Protection consulted 7 May 2015

4. Summary of Representations Received

The following summary of representations is provided.

Statutory Consultees

Ashby Woulds Town Council raise the following objections:-

- a) Highway and access grounds
- b) Backland development
- c) Position of the proposed dwellings
- d) Comings and goings and impact on neighbours

Leicestershire County Council - Highways raises no objection, subject to conditions.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

Three letters of objection have been received, raising the following concerns:-

- Overbearing, loss of privacy, loss of light
- Noise and fumes from vehicles close to boundary
- Access to the side of the pub is busy and dangerous
- Unsuitable, backland development
- Detriment to the local National Forest and at a cost to the community
- Land ownership/boundary disputes and blocking right of way
- Plans are not to scale
- Proposed hedgerows restricting visibility
- Numerous developments in Moira already consented

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

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 53 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 60 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 64 (Requiring good design)
- Paragraph 118 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2002)

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

Policy S2- Limits to Development
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design

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.

6Cs Design Guide (Leicestershire County Council)

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

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, scale and design, 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.

In March 2012 the National Planning Policy Framework (NPPF) was 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 Moira 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. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens.

Paragraph 53 within the National Planning Policy Framework states that Local Planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The need for good design in new residential development is also outlined in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The pattern of existing residential development in the immediate vicinity of the site is characterised by both properties sited sited fronting the road, and examples of backland development at Ashby Road and Station Drive.

There is already the existence of dwellings sited within back land positions - namely No's 20A and 20B Main Street. Therefore the principle of back land development has already been established within this area and on this basis the siting of a two dwelling in this set back position, is in principle considered to be acceptable.

There are a range of detached and semi-detached properties, of single and two storey proportions and therefore the detached two storey dwellings are considered reflective of surrounding properties. The footprints are also similar in scale to the host dwelling.

The two plots propose a symmetrical arrangement with projecting gables and the design incorporates some fenestration detailing to reflect details along Ashby Road.

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

Objections have been received from No. 29A and 35 Moira Road, Ashby and Ashby Woulds Town Council.

The residential dwelling most immediately impacted upon as a result of the proposal would be No. 13 Station Drive, Moira, located to the north east of Plot 2. There is a distance of at least 11 metres between the closest points between the rear of plot 2 and the rear/side elevation of No. 13, which is sufficient to ensure no overbearing impact. Plot 1 has a garden length of 10 metres, which adjoins No 13's side garden. Whilst there are first floor habitable windows proposed in the rear elevation of both plots, which would overlook this side, western garden area, No. 13 also has a large rear, south facing garden (which would not be overlooked by the proposed plots). The applicant proposes a 2 metre high fencing and planting on this boundary and it is not considered the degree of overlooking to be significantly over and above that of a typical arrangement with adjacent neighbouring properties, to the detriment of residential amenity.

There is a distance of some 18 metres between the front - forward projecting gable of plot 2 and the rear wall of No. 35. It is considered that this distance is sufficient to ensure no overbearing impacts and the gable has been designed to ensure there are no windows at first floor, ensuring no direct overlooking over the garden area of No. 35.

No. 25 Ashby Road, Moira located due west of plot 1 is sited approximately 16 metres away, which is considered an acceptable distance for the side-to-side relationship and contains one window in the side elevation which is non-habitable and obscurely glazed.

It is considered that all other neighbouring dwellings (including No. 29A to the north west of plot 2) are sited at sufficient distances away not to be impacted upon as a result of the proposal.

For the avoidance of doubt the building to the south west of the site (to the west of the access drive) is a public house, and its car park extends to the rear, adjacent to the side elevation of plot 1.

The relationship between the two proposed properties is considered to be acceptable.

Conditions are recommended to be imposed to secure obscure glazing and fixed shut or top opener windows only for the proposed bathrooms and en-suites.

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

Highway Considerations

Alterations are proposed to the existing access, currently serving the host dwelling at Ashby Road, to facilitate an access to serve all three properties.

During the course of the application, amended plans have been received altering Plot 1 to a 3 bedroomed property with first floor Home Office / Study with 2 vehicular parking spaces and Plot 2 remains as a 4 bedroomed property, but provided with 3 parking spaces.

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

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

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 the 2 dwellings. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS, which is to be secured by way of a legal agreement.

As surface water should discharge to a soakaway to ensure that unnecessary water volume does not go to the sewage treatment plant, a condition to this effect is imposed.

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

Other Matters

Boundary disputes are private, civil matters and are not material planning considerations.

Conclusion

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.

In conclusion, the site lies within Limits to Development where there is a presumption in favour of development subject to all other matters being addressed. 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. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

A legal agreement 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 legal agreement 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: Location Plan Drawing No. 214-72.01 received by the Local Planning Authority on 29 April 2015 and amended details: Proposed Site Plan Drawing No. 214-72.02 A and Proposed Dwellings Drawing No. 215-24-03 A received by the Local Planning Authority on 11 June 2015.

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

- 3 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the dwellings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

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

- 4 No dwelling shall be erected on site above damp proof course level until 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.

- 5 The boundary treatments and landscaping shall be carried out in accordance with Proposed Site Plan Drawing No. 214-72.02 A received by the Local Planning Authority on 11 June 2015. The boundary treatments shall be erected, prior to the first occupation of the respective dwelling. The approved landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved 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 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 preserve the amenities of the locality and to ensure satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of any planting.

- 6 The windows serving a wc at ground floor (plot 1) and en-suite and bathroom at first floor (plot 2) shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and non-opening or top opening only 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.

- 7 The dwellings hereby approved shall only use the mains sewer system for their foul drainage discharge.

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

- 8 The dwelling hereby approved shall not be occupied until, within a period of four months prior to occupation, the Local Planning Authority (in consultation with Severn Trent Water) has confirmation in writing 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 dwelling 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.

- 9 Before first occupation of the dwelling hereby approved, the surface water shall be disposed from the site to soakaways or another sustainable drainage system, unless evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer are first submitted to and agreed in writing with the Local Planning Authority.

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

- 10 Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide 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. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained. If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 11 Before first occupation of any dwelling hereby approved, the access drive 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 and shall be

so maintained this way thereafter.

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

- 12 Before first occupation of any dwelling hereby permitted, turning facilities shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason - To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 13 Before first occupation of any dwelling hereby approved, the respective parking provision shall be made within the curtilage in accordance with Proposed Site Plan Drawing No. 214-72.02 A received by the Local Planning Authority on 11 June 2015. 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.

- 14 Before the first occupation of the dwellings hereby approved, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. These shall be in accordance with the standards contained in the Highways Transportation and Development design guide and shall be so maintained in thereafter.

Reason - In the interests of pedestrian safety.

- 15 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

- 16 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

Reason - To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

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 and during the determination process 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 2015.

- 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 Infrastructure Planning team (for `major' accesses serving more than one dwelling) or the Highways Manager (for `minor' accesses serving one dwelling only). 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
For 'minor' accesses serving one dwelling contact the Customer Service Centre team
Tel: 0116 3050001.

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