

Proposed erection of detached dwelling with associated off-street parking and formation of new vehicular access onto Clements Gate

**Report Item No
A2**

17 Clements Gate Diseworth Derby DE74 2QE

**Application Reference
16/00075/FUL**

**Applicant:
Mr P Hughes**

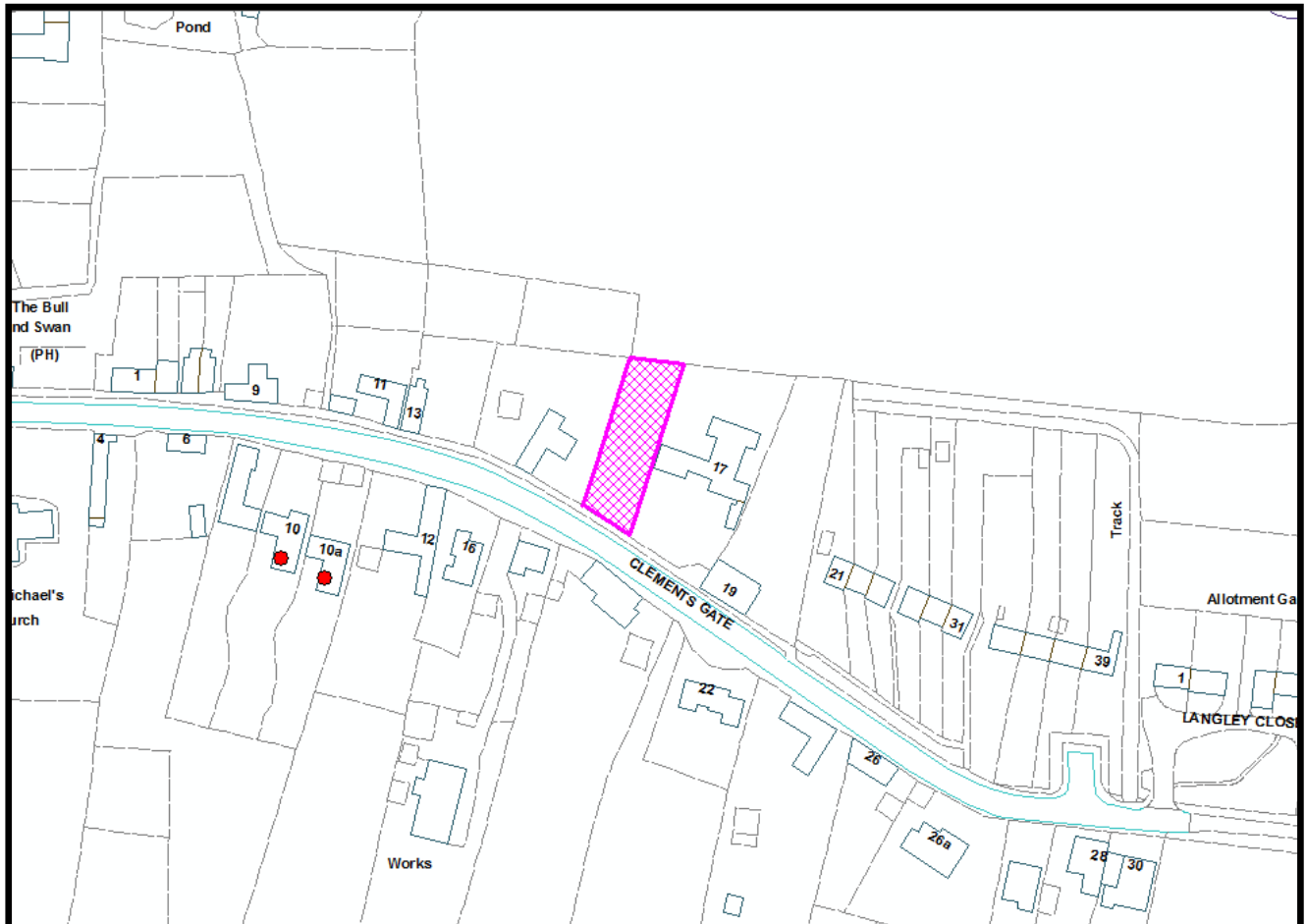
**Date Registered
19 January 2016**

**Case Officer:
Adam Mellor**

**Target Decision Date
15 March 2016**

**Recommendation:
REFUSE**

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

Executive Summary Of Proposals

Call In

The application has been brought to the Planning Committee at the request of Councillor Rushton who considers that the design of the dwelling is acceptable and that there would not be a detrimental impact on heritage assets.

Proposal

Planning permission is sought for the proposed erection of a five bed three storey detached dwelling (habitable accommodation in the roof slope) which would be situated on the north-eastern side of Clements Gate to the immediate north-west of no. 17. The application site is within the Limits to Development and is also within the Diseworth Conservation Area with the Grade II Listed no. 20 Clements Gate being located to the south-west. A new vehicular access into the site would be formed from Clements Gate.

Consultations

A total of three no. individual representations have been received in support of the application with Long Whatton and Diseworth Parish Council raising no objections. All statutory consultees, with the exception of the Council's Conservation Officer, have raised no objections subject to the imposition of conditions on any consent granted. The Council's Conservation Officer objects to the proposal.

Planning Policy

The proposed development is considered contrary to Paragraphs 61, 64, 131, 132, 134 and 137 of the National Planning Policy Framework (NPPF), Policies E4, H6 and H7 of the adopted North West Leicestershire Local Plan and Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

The proposed dwelling would be on land described as residential garden to no. 17 Clements Gate and there are no objections in principle to a dwelling on the site given it is in a socially sustainable settlement.

The Diseworth Conservation Area Appraisal highlights that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* with the eastern part of Clements Gate being more sparse with those properties set back from the carriageway not reflecting the character of traditional properties on Clements Gate. It is considered that new development should reflect those elements of the conservation area that contribute positively to its character and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape, being set behind a substantial area of hard landscape, would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and

Conservation Areas) Act 1990.

It is also considered that the provision of an additional residential dwelling on the site, particularly given the site area of the application site, would result in a density and form of development which would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall size of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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 proposed erection of a detached dwelling with associated off-street parking and formation of new vehicular access onto Clements Gate at 17 Clements Gate, Diseworth. No. 17 is a single storey detached dwelling situated on the north-eastern side of Clements Gate at an elevated position to that of the highway and is within the defined Limits to Development. The property is also situated within the Diseworth Conservation Area with the Grade II Listed no. 20 Clements Gate being located to the south-west of the site. With regards to the wider area this is characterised by dwellings which vary in their type and size with open countryside being situated to the north of the site.

The proposed five bed three-storey detached dwelling (habitable accommodation in the roof slope) would be situated on the north-eastern side of Clements Gate, to the immediate north-west of no. 17, at a distance of 10.82 metres from the back-edge of the carriageway. It is proposed that the dwelling would cover a ground area of 148.0 square metres and would be 'dug into' the land due to variance in the land levels. As a result of this its eaves and ridge height on the south-western elevation, presented to Clements Gate, would be 5.93 metres and 8.81 metres, respectively, which would be higher than those of the south-eastern elevation which are an eaves height of 2.8 metres and ridge height of 6.3 metres.

Vehicular access into the site would be gained via a newly created access off Clements Gate with off-street parking and integral garaging being supplied.

The most recent planning history of the site is as follows: -

- 91/0061/P - Erection of a part two-storey extension - Refused 29th May 1991;
- 91/0685/P - Erection of a part two-storey front extension - Approved 2nd October 1991.

2. Publicity

7 Neighbours have been notified (Date of last notification 21 January 2016)

Site Notice displayed 26 January 2016

Press Notice published 27 January 2016

3. Consultations

Clerk To Long Whatton & Diseworth consulted 21 January 2016

Leicestershire County Highways Authority consulted 21 January 2016

Severn Trent Water consulted 21 January 2016

NWLDC Head of Environmental Protection consulted 21 January 2016

Leicestershire County Council Archaeologist consulted 21 January 2016

Leicestershire County Council Ecology consulted 21 January 2016

NWLDC Conservation Officer consulted 21 January 2016

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 - Archaeology has no objections subject to the imposition of conditions on any consent granted.

Leicestershire County Council - Ecology has no objections.

Leicestershire County Council - Highways has no objections subject to their standing advice being considered.

Long Whatton and Diseworth Parish Council has no objections.

NWLDC - Conservation Officer advises that alterations to the boundary wall offer limited harm to the overall significance and may be outweighed by the provision of a new dwelling. At present, however, the layout and landscaping does not respond to local character and as such an objection is raised. Following receipt of additional information the Conservation Officer has advised that development should reflect those elements that contribute positively to the character of the area and not those elements that contribute negatively.

NWLDC - Environmental Protection has no objections.

Severn Trent Water no representation received.

Third Party Representations

Three no. representations have been received from the occupants of nos. 15, 19 and 20 Clements Gate who support the development and whose representations are summarised as follows: -

- Development has no impacts on ecological species as trees will not be removed;
- Design of property is aesthetically pleasing with stone entrance retaining walls;
- Access will allow safe entry and exit and will avoid street congestion;
- Scheme will allow for the restoration of a traditional stone wall;
- Diseworth would benefit from additional growth with occupants' supporting the local amenities;
- Development will not compromise the integrity of the historic environment.

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 17 (Core planning principles);
Paragraphs 18-20 (Building a strong, competitive economy);
Paragraph 32 (Promoting sustainable transport);
Paragraph 39 (Promoting sustainable transport);
Paragraph 47 (Delivering a wide choice of high quality homes);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 59 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 63 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 131 (Conserving and enhancing the historic environment);
Paragraph 132 (Conserving and enhancing the historic environment);
Paragraph 134 (Conserving and enhancing the historic environment);
Paragraph 137 (Conserving and enhancing the historic environment);
Paragraph 141 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);
Paragraph 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;
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;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;
Policy S2 - Future Housing and Economic Development Needs;
Policy S3 - Settlement Hierarchy;
Policy S5 - Design of New Development;

Policy H6 - House Types and Mix;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Sustainable Design and Construction;
Policy Cc3 - Water - Flood Risk;
Policy Cc4 - Water - Sustainable Drainage Systems;

Other Policies

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;

Diseworth Conservation Area Character Appraisal and Management Plan - April 2001

This document outlines that the special character of Diseworth is derived from the informal groupings of farmhouses, outbuildings and the former tied cottages along the curvatures of the principal streets. Although modern infill housing development has been undertaken, the overall pattern of the pre-enclosure settlement remains largely evident;

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;

Diseworth Village Design Statement

This supplementary planning document addresses the positive and negative features raised by residents of Diseworth from a planning perspective;

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;

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses;

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

6. Assessment

Principle of Development

The site would appear to be 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. The background to this issue is that in January 2010 the Government's Chief Planner (dated 19 January 2010) wrote to Local Planning Authorities to advise that garden land would no longer be considered previously developed land. This included an Annex which stated, amongst other things that, *"where the clear strategy to deliver housing on preferred sites is demonstrably working, then authorities may consider a policy to prevent development on gardens. Alternatively authorities could consider a policy which would set out clearly the circumstances in which garden development will be acceptable"*. The Council at the present time cannot demonstrate a 5 year supply of deliverable housing land and does not have a specific policy that prevents development on gardens. As such a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance.

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. Within the NPPF there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts 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. It is acknowledged that Policy H4/1 is out of date in the context of the fact the District Council cannot demonstrate a five year housing land supply.

It is considered that the settlement of Diseworth benefits from a range of local services including a bus service (which connects Nottingham and Derby to East Midlands Airport), a school (Diseworth Church of England Primary School, Grimes Gate), community centre (Hall Gate), church (St Michaels & All Angels, Clements Gate) and public house (The Plough, Hall Gate). Convenience facilities and employment opportunities would also be available at the airport, which is easily accessible via public transport or cycling.

Given this level of service it is considered that a scheme for one dwelling would score well against the sustainability advice contained within the NPPF, with any future occupants of the development also helping to sustain these services in the future which is a key intention of Paragraphs 28 and 55 of the NPPF. The provision of a dwelling would also make a small contribution towards the Council's housing land supply position.

Overall the principle of development would be considered sustainable in accordance with the core principles of the NPPF.

Residential Amenity

It is considered that the properties most immediately affected by the proposed works would be nos. 15 and 17 Clements Gate. No objections have been received from the occupant of no. 15 in relation to these proposals with no. 17 being within the ownership of the applicant.

In respect of the impacts on no. 15 it is noted that an existing 4.0 metre high conifer hedge along part of the shared boundary would be removed with the new dwelling being set 1.0 metre from this boundary and 7.2 metres (at its closest point) from the south-eastern (side) elevation of this dwelling. The supporting information indicates that the ridge height of the new dwelling would be 0.54 metres higher than that of no. 15 with the land levels between the two sites being generally consistent. When viewed from the south-west, within the garden of no. 15, a gable end and a sloping roof on a rear projection with heights of 6.4 metres would be presented but given the orientation of the new dwelling to no. 15, the amount of private amenity space available to no. 15, the length of the boundary covered by the new dwelling and that the ridge position of the rear projection would be 5.6 metres from the shared boundary it is considered that the proposal would not have a sufficiently detrimental overbearing or overshadowing impact on the occupants' amenities as to warrant a refusal of the application.

No. 17 is within the ownership of the applicant and it is proposed that the new dwelling would be positioned 2.4 metres from the boundary which would divide the sites. In respect of the ridge height of the new dwelling it is outlined that this would be 0.58 to 0.84 metres lower than that of no. 17 and whilst it would be situated to the north-west it has been positioned in a manner which would limit its implications to the amenities of no. 17 in respect of overbearing or overshadowing impacts. This is due to the position of habitable room windows on no. 17 and the amount of private amenity space available to this dwelling.

With regards to overlooking impacts to nos. 15 and 17 it is noted that two windows, serving an en-suite and bedroom, and three roof lights, serving a family bathroom (x2) and en-suite, would be installed in the south-western (side) elevation of the new dwelling. Five windows (serving a kitchen/dining area, stairwell, lounge (x2) and bedroom) and three roof lights (serving the entrance hall and stairwell) would be installed in the north-eastern (side) elevation. In respect of the windows it is considered that the placement of a suitable boundary treatment (to a minimum height of 2.0 metres) would prevent any adverse overlooking impacts and this could be conditioned on any consent granted. The bedroom and kitchen/dining area windows in the north-eastern (side) elevation would only provide views onto the front amenity area of no. 17 which would not be considered detrimental. In respect of the roof lights those in the north-eastern (side) elevation would be at a height of 3.6 metres above the internal floor level, which would not result in any adverse overlooking impacts. At present the roof lights shown in the south-western (side) elevation are only 1.45 metres above the internal floor level and as such views could be established towards no. 15. Although it is noted that these roof lights would only serve a family bathroom and en-suite it is considered reasonable to impose a condition on any consent granted for these roof lights to be 1.7 metres above the internal floor level of these rooms in order to avoid an overlooking impact. Views from the windows in the north-eastern (rear) elevation would be at oblique angles towards the rear amenity areas of nos. 15 and 17 and in order to prevent adverse overlooking implications from the proposed balcony a condition would be imposed on any permission granted for an obscure screen to be provided to both side boundaries.

In respect of future amenities it is considered that the proposed dwelling would have an acceptable relationship with nos. 15 and 17 and would not be subjected to any adverse overlooking impacts particularly as the view from a first floor bedroom window in no.15 would be

towards the front parking area for the new dwelling and that the windows in no. 17 which would result in a direct overlooking impact are to be removed. Any future occupant would also be aware of the relationship prior to their purchase.

Overall the proposed development is considered compliant with Policy E3 of the adopted Local Plan.

Impact on the Historic Environment and Streetscape

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, 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."*

At present the application site is around 1.5 metres higher than the pavement and the Clements Gate carriageway with land levels on the site rising from south to north. Most properties in the area are two-storey or one and a half storey detached types with the traditional dwellings laid out to the back of the pavement, some properties on the northern side are raised on plinths or half basements due to the slope of the land. The majority of dwellings are aligned with their eaves addressing the street but some do present gable ends such as no. 15 Clements Gate. Although the western end of Clements Gate is defined by development which is dense with limited spaces between dwellings and limited opportunities for soft landscaping the eastern end, where the application site is set, is more sparse with several *"boundary treatments of merit (local sandstone rubble being a characteristic feature)"* as outlined in the Diseworth Conservation Area Appraisal. Nos. 17 and 22 Clements Gate are modern dwellings set back from the highway and their character does not reflect that of the traditional properties on Clements Gate.

In assessing the application the Council's Conservation Officer highlights that the Diseworth Conservation Area Appraisal specifies that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* and also warns against the *"pressure for infill development."* With regards to the proposal it is highlighted that *"the proposed alteration to the boundary wall would offer limited harm to the overall significance of the conservation area; this degree of harm may be outweighed by the provision of a new dwelling that responds to local character and reflects the importance that the government attaches to good design,"* it is then concluded that the proposal *"would not respond to local character in terms of its layout and landscape. It would be set back from the street behind a substantial area of hard landscape. For these reasons I would not support the proposed dwelling."*

The agent for the application supplied further information to identify the areas of hardstanding which exist to properties on the eastern part of Clements Gate and that, in their view, *"Clements Gate is characterised by a mix of traditional properties, which are predominately laid out to the back of the pavement, and more modern properties which are predominately set back from the street behind an area of hard landscape. The character of Clements Gate cannot be defined by one small group of dwellings (nos. 11 to 15). It is considered that the character of Clements Gate is a mix of both traditional and modern properties."*

With regard to these points raised the Council's Conservation Officer has identified that it would be expected that *"development should reflect those elements that contribute positively to the character of the conservation area, i.e. the layout and landscape of nos. 11 to 15 Clements"*

Gate, and not those elements that contribute negatively, i.e. the layout and landscape of nos. 17 and 22 Clements Gate." It is also noted that a hard landscaping analysis was supplied whereas the previous comments specified that the open paddocks and gardens contribute to the character of the conservation area, the development itself being on garden land.

It is considered that the degree of 'harm' caused to the significance of the heritage asset, as described by the Council's Conservation Officer above, is less than substantial and as such Paragraph 134 of the NPPF would be of relevance. This particular Paragraph highlights that *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable re-use."*

Given the particular requirements of this Paragraph, as well as those of Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that as there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132, 133, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Section 72 of the 1990 Act. In the circumstances that the development would adversely impact on the significance of the conservation area the removal of the *"boundary treatment of merit"* would not be justified.

In respect of the setting of the Grade II Listed no. 20 Clements Gate it is considered that the development would neither sustain nor enhance the significance of the setting of this heritage asset and as a consequence the development would also be contrary to Section 66 of the 1990 Act as well as the above Paragraphs of the NPPF.

The plot of land on which the property would be developed has an area of 0.053 hectares which results in a density of development of 18.86 dwellings per hectare. In respect of the neighbouring properties no. 15 has a density of development of 10.0 dwellings per hectare whereas no. 19 has a density of 8.3 dwellings per hectare (in respect of the land remaining for no. 17 the density of development on this site would be 7.14 dwellings per hectare). Given the relationship of the site with nos. 15, 17 and 19 it is considered that the proposed development would appear cramped and constrained in the context of the spaciousness afforded to properties on this side of Clements Gate particularly given the density of development on these plots. Whilst nos. 11 and 13 Clements Gate, to the west of the site, have a similar density of development to the proposed site the size of dwelling constructed on those sites does not dominate the plot of land and therefore the spaciousness around these dwellings is maintained. In these circumstances it is considered that the development would be detrimental to the character and appearance of the streetscape and surrounding area contrary to the environmental strand of the NPPF as well as Paragraphs 59, 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

Paragraph 53 of the NPPF highlights that Local Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens with the example cited being where development would cause harm to the local area. As highlighted earlier in this report, it is considered that the development would constitute development of a residential garden but, given the absence of a five year housing land supply, a reason for refusal on the basis of the proposal being contrary to Paragraph 53 of the NPPF alone could not be substantiated given that neither the adopted nor draft consultation Local Plan contain policies resisting such development. However, this does not detract from the fact that it is considered that the development would result in harm to the character and appearance of the area.

In respect of the design of the dwelling it is considered that whilst this would have characteristics commensurate with those on the traditional properties within this part of Clements Gate (i.e. rubble stone plinth, dormer windows, plain clay roof tiles and Yorkshire sliding sash windows) the significant width and massing of elevation presented to the street, as well as its provision of an integral double width garage, would not respond positively to the appearance of the streetscape or accord with its established character. This would result in further conflict with Paragraphs 59, 61 and 64 of the NPPF as well as Policies E4 and H7 of the adopted Local Plan.

Highway Safety

The County Highways Authority has raised no objections subject to their standing advice in respect of vehicular visibility, pedestrian visibility, car parking, access surfacing, access gradient and access drainage being taken into account.

A highway report submitted in support of the application outlines that a new dropped kerb crossing of 9.2 metres width would be provided onto Clements Gate with the private driveway to the new dwelling being 6.3 metres in width, this would require the removal of part of the stone boundary wall. The width of the private drive would ensure that pedestrian visibility splays of 2.0 metres by 2.0 metres at both corners of the drive along with visibility splays of 2.4 x 43.0 metres in both directions could be provided. In respect of the gradient of the drive it is noted that this would be relatively level with the carriageway of Clements Gate, given the excavation works which would be undertaken, and the depth of the drive allows turning manoeuvres to be carried out clear of the highway so vehicles exit in a forward direction. Subject to conditions being imposed on any consent granted for these details to be provided, along with conditions relating to access surfacing and drainage, it is considered that the development would not impact adversely on pedestrian or highway safety and as such it would comply with Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

In respect of off-street parking provision whilst it is noted that the internal length of the integral garage would not meet the guidance contained within the 6Cs Design Guide it is considered that at least one vehicle could park within the structure due to its width. Further off-street parking to serve the dwelling would then be provided to the site frontage and on this basis it is considered that the proposed development would not lead to on-street parking problems on Clements Gate. On this basis the development would be compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Ecology

The County Council Ecologist has been consulted and has identified that there is no requirement for ecological surveys to be carried out given that the development site is within an existing garden. In the circumstances that no objection has been raised it is considered that protected species would not act as a constraint on the development and as such it would accord with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

It is proposed that a 4.0 metre high conifer hedge along the boundary of the site with no. 15 Clements Gate would be removed along with individual conifers within the current side garden of no. 17 Clements Gate (which would become the rear garden to the new dwelling). More mature trees in close proximity to the north-eastern (rear) boundary would be retained along with vegetation within the garden to no. 17. It is considered that neither the conifer boundary

hedge, or individual conifers, contribute significantly to the visual amenity of the public domain and as such they would not act as a constraint on development particularly when the trees of higher amenity values would be retained. A condition to secure a landscaping scheme would be imposed on any consent granted in order to ensure that future planting undertaken provides suitable native species and this would ensure the development would be compliant with Policy E7 of the adopted Local Plan.

Archaeology

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is within the medieval and post-medieval historic settlement core of Diseworth on the site frontage with the first edition Ordnance Survey map of 1890 suggesting there has been little disturbance on this site. Consequently, there is a likelihood that buried archaeological remains will be affected by the development.

Given the opportunities which exist for archaeological remains to be present on the site the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological work (including strip and record excavation), written scheme of investigation and programme of archaeological mitigation to be provided, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF.

Development and Flood Risk

It is noted that the application site and the properties within the vicinity of the site do not fall within Flood Zones 2 and 3. Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water), with it being noted that no representation from Severn Trent Water has been received, 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 sustainable urban drainage scheme (SuDs). In the circumstances that the site is not within Flood Zones 2 and 3 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.

Conclusion

The proposed dwelling would be on land described as residential garden to no. 17 Clements Gate and there are no objections in principle to a dwelling on the site given it is in a socially sustainable settlement.

The Diseworth Conservation Area Appraisal highlights that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* with the eastern part of Clements Gate being more sparse with those properties set back from the carriageway not reflecting the character of traditional properties on Clements Gate. It is considered that new development should reflect those elements of the conservation area that contribute positively to its character and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape, being set behind a substantial area of hard landscape, would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public

benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is also considered that the provision of an additional residential dwelling on the site, particularly given the site area of the application site, would result in a density and form of development which would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall size of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4 and H7 of the adopted Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built environment. Paragraph 61 of the NPPF outlines that planning decisions should address the connections between people and places and the integration of new development into the historic environment. Paragraphs 131, 132, 134 and 137 of the NPPF all indicate that in making planning decisions consideration should be given to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and that where less than substantial harm is caused this harm should be weighed against the public benefits of the development. Policy E4 of the adopted North West Leicestershire Local Plan (Local Plan) requires new development to respect the character of its surroundings with Policy H7 of the Local Plan seeking good design in all new housing developments. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 1990 Act) also indicates that special regard will be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses when making planning decisions. Section 72 of The 1990 Act also outlines that special regard shall be had to the desirability of preserving and enhancing the character or appearance of a Conservation Area. New development within the Diseworth Conservation Area should seek to reflect those elements of the conservation area that contribute positively to its character, such as dwellings fronting onto the carriageway and soft landscaping, and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public benefits associated with the development which would outweigh the harm caused to the significance of the heritage asset it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built environment. Paragraph 53 of the NPPF highlights that inappropriate development on residential gardens should be resisted where harm would be caused to the appearance of the environment. Paragraph 61 of the NPPF outlines that planning decisions should address the connections between people and places and the integration of new development into the historic environment. Paragraph 64 specifies that development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions should be refused. Policy E4 of the adopted North West Leicestershire Local Plan (Local Plan) requires new development to respect the character of its surroundings with Policy H6 of the adopted Local Plan indicating that when assessing density it is important to factor into the assessment, amongst other things, the good principles of design and layout which make the most economical use of land and respect the local context. Policy H7 of the adopted Local Plan seeks good design in all new housing developments. Given the size of the application site it is considered that the density and form of development would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall scale of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. The development would also be on residential garden land and would result in harm to the local area. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the application as submitted is not acceptable and the Local Authority has not entered into dialogue to seek any amendments due to it being advised at the pre-application stage that a development of this nature would not be acceptable. The Local Planning Authority has therefore complied 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.