

COMMITTEE DATE: 21st April 2016

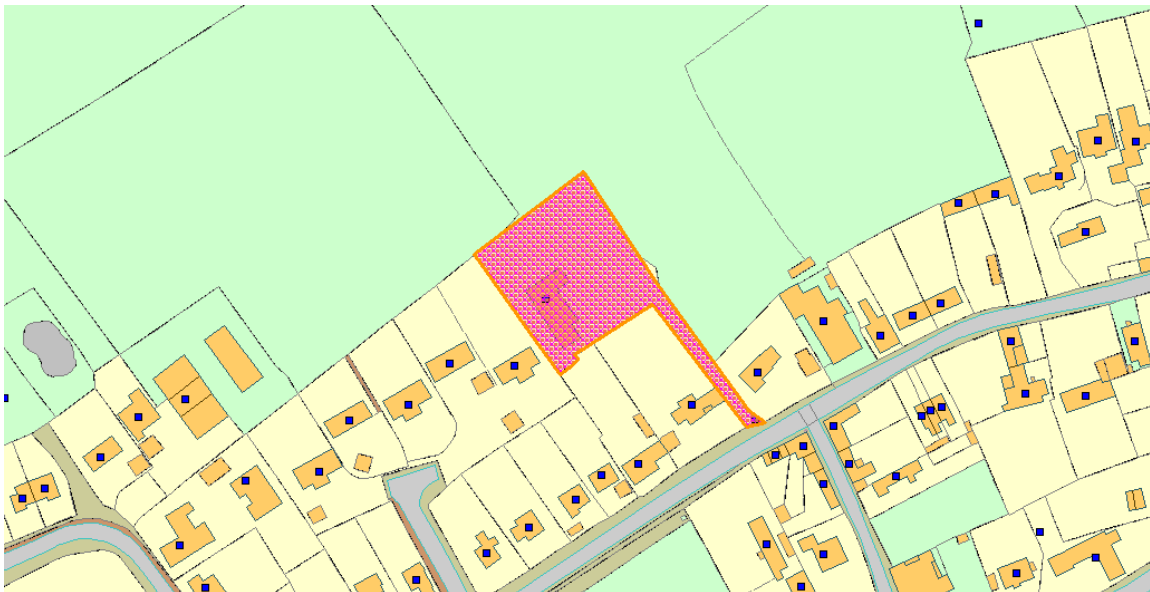
Reference: 15/00866/FULHH

Date submitted: 30th October 2015

Applicant: Mr T Pruce

Location: The Shires, 26 Church Lane, Long Clawson, Melton Mowbray LE14 4ND

Proposal: Proposed internal and external alterations to existing bungalow with associated detached garage.

**Introduction:-**

The application seeks planning permission for alterations and extensions to the existing bungalow and the erection of a detached garage.

The site is located within Long Clawson and is outside of the designated Conservation Area. The site has an area of approximately 2800 square metres and consists of a large bungalow with an integrated garage.

The proposal relates to the addition of a porch to the north east elevation, and a living room extension to the south-west elevation. A new 4 bay garage with boiler room and store is proposed to be positioned along the south-east boundary 21.1 metres in length, with a maximum height to ridge of 5.15 metres.

It is considered that the main issues relating to the application are:

- **The impact of the proposal on the residential amenities of neighbouring properties**
- **The visual impact of the proposal on the character and appearance of the settlement**
- **The implications of the Section 52 Agreement relating to the application site**

The application is required to be considered by the Planning Committee due to the level of representation received.

Relevant History:

11/00752/REM – Reserved Matters application for the appearance and landscaping of the site (08/00703/OUT Demolition of existing bungalow, development of site to include 4 residential properties and improvements to site access road.) **This application remains pending consideration.** A decision has not been made due to issues with the Section 52 agreement relating to the site / pending application to the Land Tribunal to discharge the Section 52.

08/00780/OUT - Outline permission was granted for demolition of existing bungalow, and development of site to include 4 residential properties and improvements to site access road.

08/00196/OUT – planning permission for demolition of existing bungalow and erection of 5 dwellings was refused in April 2008 due to the location of the dwellings on plots 1 and 2 being outside the village envelope.

92/0742 – planning permission for the change of use from residential to residential/nursing home for the elderly was refused in February 1993 due to the impact upon residential amenity and the unsatisfactory access proposed.

88/0189 – planning permission was granted in May 1989 for the erection of a bungalow and garage

87/0730 – outline planning permission was granted for the erection of a bungalow and garage

87/0165 – planning permission for the erection of a bungalow and garage was refused in April 1987 as the site was not considered suitable for new development; the proposal would represent backland development; the agricultural access, which forms part of a footpath, is not considered suitable; and, the proposal would set a precedent.

77/0352 – planning permission for residential development was refused in July 1977 for similar reasons as above.

Development Plan Policies:

Melton Local Plan (saved policies):

Policies OS1 and BE1

OS1 states that planning permission will only be granted for development within the village envelopes where:-

- The form, character and appearance of the settlement is not adversely affected;
- The form, size, scale, mass, materials and architectural detailing of the development is in keeping with the character of the locality;
- The proposed use would not cause loss of amenity by virtue of noise, smell, dust or other pollution;
- The development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity;
- Satisfactory access and parking can be made available.

BE1 states that planning permission will not be granted for new buildings unless among other things, they are designed to harmonise with their surroundings, they would not adversely affect the amenity of neighbours and there is adequate access and parking provision.

The National Planning Policy Framework was published 27th March 2012 and replaced the previous collection of PPS. It introduces a ‘presumption in favour of sustainable development’ meaning:

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

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that **whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail. It is considered that the Local Plan policies in this respect are closely aligned with the overall aims and objectives of the NPPF.**

It establishes 12 planning principles against which proposals should be judged. Relevant to this application are those to:

- Always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

On Specific issues relevant to this application it advises:

Requiring good design

Good design is a key aspect of sustainable development, and is indivisible from good planning, and should contribute positively to making places better for people. Specifically, paragraph 64 states that permission should be refused for 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.

As stated above, s38(6) requires determination to be in accordance with the Development Plan unless other material considerations indicate otherwise. This is reinforced by paragraph 11 of NPPF. These form the relevant Development plan policies and they remain extant.

The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF paragraph 12).

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highway Authority: No comment to make</p>	<p>Noted.</p> <p>The site is accessed from along a track from Church Lane, and opens out into a large driveway with space for vehicles to park in front of the dwelling. There is adequate space on site for cars to turn around before exiting the site, preventing cars reversing out onto the highway.</p> <p>The proposal relates to a householder application, therefore it is not expected that there would be an increase in traffic to the site generated by the proposal to the detriment of highways safety. The proposal will also not have a significant impact upon the adequacy of car parking and turning arrangements.</p> <p>The proposal includes the provision of a 4 bay garage within the residential curtilage which will be more than sufficient to park cars that would be associated with residential use, including hobbies. As such, the proposal is considered to meet the overall objectives of policies OS1 and BE1 in respect of highways safety.</p>
<p>LCC Footpaths: No Objection</p> <p>Public Footpaths G32 and G41 run through the site of the</p>	<p>Noted.</p> <p>A public footpath (G41) crosses the site and is</p>

<p>proposed development and are already in the process of being diverted by Order under the Highways Act 1980. The Officer has stated that they have no objection to the proposed alterations to the bungalow or the additional garages as they should not affect the public use and enjoyment of the footpaths; however the advisory notes supplied should be applied to any permission.</p> <p>The Public Path Diversion Order is awaiting confirmation, this final legal stage cannot be undertaken until the new footpaths are laid out on the ground according to the specifications provided in the Order.</p>	<p>currently obstructed by both No's 26 and 28 church Lane. This then joins a further footpath (G32) to the north of the site. A suitable diversion route has been identified for which the plan and specifications have been made available as part of the LCC Footpaths consultation response.</p>
<p>Melton Ramblers: No Objection</p> <p>The Ramblers have advised that they would not object to the footpath diversions that will be required, but the exit of footpath G32 in the NE of the site would need to be a kissing gate and NOT a stile as shown on the plan.</p>	<p>Noted.</p> <p>This issue has been addressed in the amended plans submitted on 15th December 2015.</p>
<p>Clawson, Hose and Harby Parish Council: Object</p> <p>The development would be overbearing and intrusive to neighbouring properties.</p> <p>It is over large for its position on the site and disproportionate to the main dwelling</p>	<p>Noted.</p> <p>The proposed garage would measure 21.1 metres long, 6.14 metres deep, and have a height to the ridge of 5.15 metres. The garage would be positioned close to, and along, the south east boundary of the dwelling and would be positioned adjacent to the rear boundary of no 28. Whilst it is agreed that the garage is large, it is not considered that there is any reason to limit the scale of garages associated with houses, other than in terms of their impact.</p> <p>The garage is required by the applicant for his hobby collection of classic cars, therefore it is considered to be ancillary to the residential use of the site (a business is not proposed to be run from the garage).</p> <p>The proposed garage would be set back around 34 metres from the rear elevation of the dwelling which it would face (28 Church Lane). This separation distance is considerable, and is greater than the separation distances accepted for distances between building from the point of view of residential amenity, which are typically 14m.</p> <p>It is not considered that the garage building would cause an unacceptable loss of residential privacy to the occupiers of the dwellings to the south by virtue of the use of the building, and lack of windows on the south elevation facing no 28.</p> <p>There would be some loss of views that the occupiers of the dwellings to the south currently experience from the windows in the rear elevation, it is not considered that this loss represents sufficient loss of amenity to justify refusal of the application.</p> <p>Whilst the garage is large, it is not considered to be over-large for the plot which as stated in the introduction amounts to almost 3000 square metres. The garage would have a footprint of no more than</p>

<p>There is a Section 52 Agreement dated 12th April 1988 which, in the opinion of the Parish Council, prohibits development on the site.</p>	<p>130 square metres, and could not be considered to be overdevelopment of the site. The proposed garage is larger than average, however the existing dwelling occupies a very large plot, and the height and mass of the garage is considered to be consistent with the existing residential bungalow on the site.</p> <p>The proposed garage is considered to meet the overall objectives of policies OS1 and BE1 of the Melton Local Plan in terms of residential privacy and amenity.</p> <p>The Section 52 Agreement is discussed separately under the heading 'Legal Opinion' below.</p>
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Representations:

The application was advertised by way of a site notice at the application site and six neighbouring dwellings were consulted. As a result of the consultation 40 representations have been received from 27 separate households. The comments are summarised below. A further 8 representations have been received in relation to amended plans.

Consideration	Assessment of Head of Regulatory Services
<p>Impact Upon Character and Appearance of the Settlement</p> <p>The garage is out of place in a residential setting</p> <p>The garage is out of keeping with the size of the dwelling, locality and adjoining properties.</p> <p>The garage is visually obtrusive</p> <p>The garage is detrimental to the rural / open character of the area</p> <p>The garage will be visible from public footpaths and will dominate the access</p>	<p>Noted.</p> <p>The proposed garage is required in conjunction with the existing use of the site as a residential dwelling. The applicant has a number of classic cars which he wishes to store securely and work on for his own enjoyment. Whilst it is accepted that the garage is large, as stated above, it is not considered to be out of proportion with the size of the residential curtilage or the existing dwelling.</p> <p>The height of the proposed garage would be level with the ridge line of the existing bungalow on the site. The site itself is at a lower ground level than the neighbouring dwellings at Church Lane which are two storey. It is not considered that the proposed garage building is out of keeping with the neighbouring buildings.</p> <p>The proposed garage would be set back from Church Lane by more than 50 metres behind a two storey dwelling. Therefore, only fleeting glimpses of the garage would be visible from Church Lane between the existing buildings. The garage would be visible from the wider countryside to the north, particularly to users of the footpaths, but it would be viewed in the context of the built form of the village, and could not be considered to be harmful to the overall character and appearance of the open countryside. The proposal is therefore considered to meet the overall objectives of policies OS1 and BE1 of the Melton Local Plan.</p>

<p>Design</p> <p>The proposal is too modern</p> <p>There is too much white framed glazing</p> <p>The alterations to the garage shown on the amended plans are cosmetic, marginal tweaks.</p>	<p>Noted.</p> <p>The proposal consists of the addition of a porch and first floor extension to the north-east elevation, the proposed dimensions of which are: 3.92 metres front width and 1.58 metres depth, the extension carries over the bay window gable to the north of the entrance to a height of 5.63 metres into an apex with feature glazing to the porch and above, and a single small obscure glazed window to the first floor. Two new dormer windows and two roof lights are proposed for the north-east roof slope. The existing garage doors are to be replaced with windows. Walls are to be rendered with the render type and colour to be confirmed. Materials proposed are white UPVC window frames and timber doors to match existing.</p> <p>The alterations to the north-west elevation comprise of re-configuration of the existing openings to increase the amount of glazing with sliding doors, glazed panels, French doors and a feature window to the existing gable, the addition of a balcony and extension of the roof to form a canopy over the balcony is also proposed. Two roof lights are proposed in the roof slopes formed by the porch and living room/first floor extensions. Materials proposed arte tiles to match the existing roof., white UPVC window frames to match existing.</p> <p>Living room and first floor extension to the south-west elevation. Proposed dimensions: 9.25 metres length, 5.5 metres width. The height of the extension varies with ground levels; the highest point is in line with the ridge of the existing building. No windows are proposed for the south west elevation of the extension, glazing to the entire north-west elevation in the form of a bay window, and French doors to the north-east elevation. Folding doors are proposed to the south-east facing elevation. Proposals for the south-west elevation also involve the addition of three roof lights and alteration of an existing window to a patio door. Materials proposed - Brick and tile to match the existing building., white UPVC window frames and timber doors to match existing.</p> <p>The four bay garage with boiler room and store, positioned along the south-east boundary: the dimensions proposed are: 21.1m length 6.14 width height 5.15m to ridge. The roof design is hipped at the ends of the building, there is a window proposed in each of these end walls. There are no openings to the south-east facing elevation. The north-west elevation consists of four roof windows, two double garage doors for the central bays with a single garage door both sides of these to the boiler room and store sections, the front of these sections is set back 1.1 metres from the front of the central</p>
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	<p>section, the roof will overhang in line with the eaves of the central section.. The garage is distanced at 900mm from the boundary line.</p> <p>The NPPF advises at paragraph 60 that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.</p> <p>The design of the proposal is considered to be in keeping with the existing dwelling and the character of the surrounding area.</p>
<p>Highways / Footpaths</p> <p>There is a risk to users of the footpath if the driveway boundary is fenced and a dummy gate is installed</p> <p>Emergency vehicles will be prevented access to the site</p> <p>There will be increased levels of traffic on an unmade driveway due to multiple additional vehicles</p>	<p>Noted.</p> <p>The Footpaths Officer is satisfied with the details of the application, and does not consider that the proposal would represent an increased risk to users of the footpath.</p> <p>There are no details in the plans that would suggest that emergency vehicles would be impeded access to the site.</p> <p>The proposal relates to extensions and buildings ancillary to the use of the dwellinghouse, therefore it is not envisaged that there would be significant increases in traffic using the access. As stated above, the garage is required for storage of classic cars relating to the applicants hobby. The proposal is therefore considered to meet the objectives of policies OS1 and BE1.</p>
<p>Noise</p> <p>There is a potential for noise pollution due to using the garage for vehicle maintenance</p> <p>There will be environmental contamination from light industrial activities taking place</p>	<p>Noted.</p> <p>The garage will be used for maintenance of vehicles, ancillary to residential use. No business is to be run from the site, and a condition can be placed on any permission granted at the site to ensure that a business is not run from the site.</p>
<p>Impact Upon Residential Privacy and Amenity</p> <p>The garage will block the outlook and aspect for neighbouring properties</p> <p>The garage is intrusive and overbearing, creating a claustrophobic feeling for neighbouring properties</p> <p>There will be the total obliteration of open aspects</p>	<p>Noted.</p> <p>The neighbouring property that would be most affected by the proposed garage is 28 Church Lane to the south of the site. As stated above, the proposed garage is along the southern boundary of the application site. It is not considered that the proposal is significantly dominant to this property due to the lower land level at the application site, the single storey hipped design and the separation distance between the two buildings of 34 metres.</p> <p>Whilst it is accepted that the occupiers of 28 Church Lane would experience the partial loss of a view that they have become accustomed to, loss of a view is not a planning consideration. The</p>

<p>There will be a loss of light to surrounding properties</p>	<p>separation distance of some 34 metres between the buildings will ensure that there is no unacceptable loss of residential amenity to the neighbouring dwellings.</p> <p>It is not considered that the proposal would cause an undue loss of light to surrounding properties, as most neighbours are located to the south of the site. There are some neighbouring dwellings to the west of the site which may experience some loss of light in the early morning, however this is not considered to be so detrimental to their residential amenity that planning permission should be refused.</p> <p>The proposal is considered to meet the objectives of policies OS1 and BE1 of the Melton Local Plan.</p>
<p>Policy</p> <p>The Melton Borough Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study states that the materials used for development in this area should be simple muted palette, including timber, painted render and brick. The submitted design includes large areas of white glazing, extended roofs, and that the colour and type of the render walls is to be confirmed.</p>	<p>The document to which this representation relates is part of the evidence base for the New Melton Local Plan and in any event excludes the site from assessment as it is already part of the ‘built up’ area. As stated above, s38(6) requires that the determination of planning applications is in accordance with the Development Plan unless other material considerations indicate otherwise. The policies for the determination of this application are therefore saved policies OS1 and BE1 of the Melton Local Plan and the NPPF.</p> <p>With regards to the proposed materials, these can be conditioned to ensure that samples are provided for approval prior to the start of development to ensure that they blend in well with the character of the existing development and the appearance of the area overall.</p>
<p>Other Matters</p> <p>The garage size is unnecessary, the bungalow already has 6 bedrooms and a garage</p> <p>The existing garage could be modified to accommodate a car lift and boiler room</p> <p>The boiler room and store sections of the garage could have a lower roof height, there has been no justification given for the proposed height given.</p> <p>It will not be possible to maintain the fence due to the proximity of the garage to the boundary.</p>	<p>Noted.</p> <p>The proposal involves the reconfiguration of the existing bungalow, resulting in the conversion of the existing garage to rooms, resulting in a 5 bedroom dwelling.</p> <p>The applicant has stated why they require a garage of the size and design applied for and this is considered to be reasonable.</p> <p>It is not considered necessary to reduce the height of the boiler room and store section of the garage, and the applicant did not wish to.</p> <p>The amended plans increase the distance of the garage from the boundary to 900mm to allow for maintenance of the boundary. If rights exist to allow maintenance, they would not be overridden by the granting of permission.</p>

<p>The garage is more like a light industrial unit, and there is potential for it to be used as a commercial workshop or dealership</p> <p>The garage will set a precedent for similar developments in the area.</p>	<p>The applicant explains that it is for his hobby of classic cars, and any permission granted would require that the building is not used for commercial purposes, nor is it to be sold or leased separately from the main dwelling or a business to be run from it.</p> <p>All planning applications are determined on their individual merit.</p>
<p>Site History</p> <p>Reference is made to two previous planning applications in the history of the site: 87/001165 for change of use from residential to nursing home. Refused due to adverse effect on community, residential amenity and increased traffic. 08/00196 5 new dwellings. Refused as 2 of the proposed dwellings were not within the village envelope</p>	<p>Noted.</p> <p>Each application is judged on its own merits in accordance with the current Development Plan and other material considerations.</p>
<p>Legal Opinion</p> <p>Section 52 Agreement</p> <p>Neighbours have instructed their own advisor to provide a legal opinion on the Section 52 at the site. They are of the opinion that the Section 52 Agreement prohibits development of the site, and that:</p> <p>The principle of the Section 52 Agreement was to prevent inappropriate development affecting adjoining properties.</p> <p>The purpose of the agreement is to protect the amenity and setting of the adjoining properties.</p> <p>The applicant is criticised for not seeking to modify or discharge the Section 52 Agreement at the time that the planning application 11/00752/REM was being considered.</p> <p>There is a witness statement regarding discussions with the previous land owner (Mr Lawrence) and the occupiers of neighbouring properties. This states that regarding the 1987 outline planning application for the bungalow, the applicant offered to sign an agreement which would prevent further development of the site. The records of the reasoning of the Councillors as to their intention for the issues covered by the agreement in the form of minutes of a Development Committee meeting were unfortunately destroyed in the 2008 fire at the Melton Borough Council offices.</p> <p>The Covenant wording is specific and prescriptive. It allowed the applicant to use the 280 square meters of the access to build the bungalow and attached garage on the sites West boundary to protect the open aspect of the site, once built the access is then restricted to protect the area and its local rural outlook, so to use the access to build a new 1200 square foot garage block is in breach of the covenant.</p>	<p>Noted.</p> <p>The Section 52 Agreement was made in relation to a planning application 87/00730 which granted outline planning permission for the erection of a bungalow and garage. (Appendix 1)</p> <p>The Council has sought independent Counsel advice as to the scope of the Agreement and if it prevents the development proposed under this planning application. The opinion provided to the Council is that the scope of the Agreement is limited to the use of the access in connection with the development (a residential dwelling).</p> <p>It is not considered that the Section 52 Agreement confers any directly enforceable benefits upon the neighbouring properties, and it does not prevent the currently proposed development from being carried out.</p> <p>The Section 52 Agreement restricts the use of the driveway “to use as a public footpath and for private vehicular access to the development and for no other purpose”.</p> <p>The access would continue to be used for access to the development, and no other use of it is proposed.</p> <p>Planning application 11/00752/REM remains undetermined due to the Applicant not having submitted an application to the Upper Lands Tribunal for a Deed of Discharge of the Section 52 Agreement, following legal advice sought by MBC at the time of consideration. The relevance of the legal issue relating to application 11/00752 is not comparable to the current planning application in that the proposed development is of a nature which retains the existing bungalow, therefore the Section 52 Agreement can be read as it was originally</p>

	intended, whereas application 11/00752 proposed to remove the existing bungalow and garage i.e. the development to which the Section 52 agreement relates, and to replace that development with an entirely different development.
<p>Amended Plans (16.03.2016)</p> <p>8 representations have been received since an amended plan was submitted on 16.03.2016.</p> <p>The amendment related to the distance of the proposed garage from the south-east boundary.</p> <p>Comments are from those that have previously submitted representations in response to this proposal.</p> <p>No additional points were raised and state that the original objection still stands.</p>	<p>Noted.</p> <p>The comments have been dealt with above</p>

Conclusion

The proposed development lies within the village envelope of Long Clawson and thus benefits from a presumption in favour of development under policies OS1 and BE1. It is considered that the proposal would not have a detrimental impact on either residential amenity or the streetscene and satisfactory access and parking can be provided within the site, and as such meets the objectives of policies OS1 and BE1 of the Melton Local Plan. The continued residential use of this area would not encroach upon the undeveloped countryside and a refusal on this basis could not be justified. Counsel advice has shown that the proposed development is not within the scope of the Section 52 Agreement, and therefore the proposed development is considered to comply with the development plan and the NPPF and is recommended for approval.

RECOMMENDATION: Permit, subject to the following conditions:

- 1 The development shall be carried out strictly in accordance with the approved plans received by the Local Planning Authority on 16.03.2016 6884-03-14-P2, 6884-01-02-P2, 6884-03-10-P11, 6884-03-11-P8, 6884-03-12-P8
- 2 No development shall start on site until all materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority.
- 3 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 4 The car parking and any turning facilities shall thereafter permanently remain available for such use.
- 5 The garage hereby permitted shall be used solely by members of the household of the host dwelling or their dependants for purposes incidental to the enjoyment of the dwellinghouse and it shall not be sold, leased or disposed of separately from the main dwelling, nor shall a business be run from the site.
- 6 Any damage caused to the surface of a Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
- 7 No new gates, stiles, fences or other structures affecting a Right of Way, of either a temporary or permanent nature, should be constructed without the written consent of the Highway Authority having been obtained. Unless a structure has been authorised, it constitutes an unlawful obstruction of a Right of Way and the County Council may be obliged to require its immediate removal.

8 Care should be taken to ensure that pedestrians are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence. In view of the close proximity of the proposed development to the Footpath, particular attention should be given to ensuring that no materials are stored on the line of the path and that no Contractors' vehicles are parked either along or across it ensuring that free access can be exercised safely at all times.

For the following reasons:

- 1 For the avoidance of doubt
- 2 To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted
- 3 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.
- 4 To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.
- 5 To ensure that the use remains compatible with the site and surrounding area.
- 6 In the interests of Highway safety
- 7 In the interests of Highway safety
- 8 In the interests of Highway safety

Officer to contact: **Mrs Lynn Eastwood**

Date: 12th April 2016