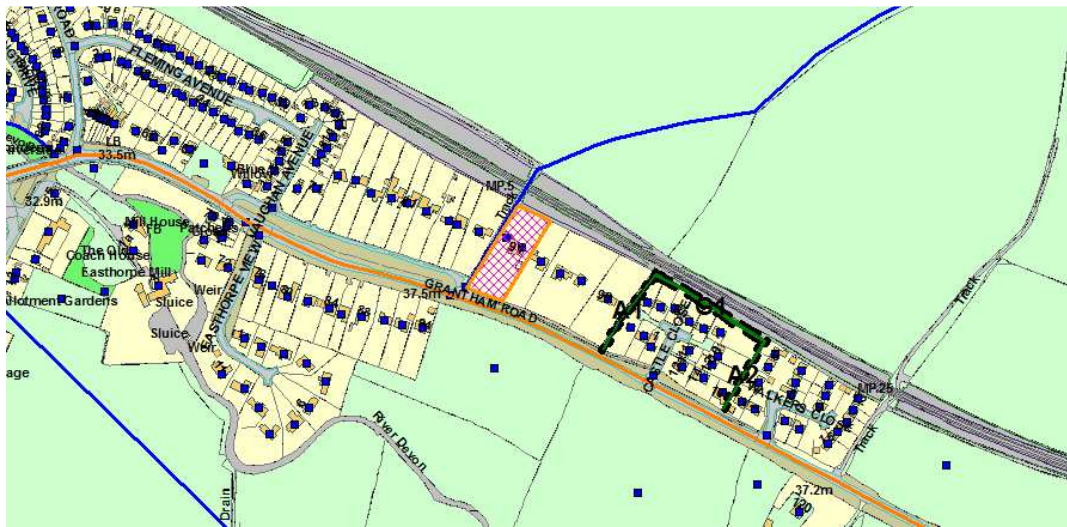


**Reference:** 18/00234/VAC  
**Date Submitted:** 21.02.2018  
**Applicant:** Mr Ross Whiting  
**Location:** 91 Grantham Road, Bottesford, Nottingham NG13 0EG  
**Proposal:** Partial variation of condition 3 (To allow the obscure glazed windows indicated on the plans to be top hung only and obscure glazed) of planning approval 15/00924/VAC Residential development of 2 Dwelling



**Introduction:** - The application seeks to vary a planning condition on application reference 15/00924/VAC for the erection of two dwellings on land where 91 Grantham Road, Bottesford once stood/. The specific condition is 3 which originally stated:

*The following windows shall be obscurely glazed and fixed shut in perpetuity: windows on the east elevation of plot 1, first floor windows on the west elevation of plot 1, windows on the west elevation of plot 2, windows on the east elevation of plot 2 and the windows shown on the rear elevation of plot 2 as obscure glazed. The applicant wishes to change this to have the windows top hung open only whilst maintaining the obscurity already present on site.*

The application seeks to vary this condition to allow the windows in plot two to be opened b atop hung only; meaning it can be opened outwards from the bottom. They will remain obscure in line with the condition above.

**It is considered that the main issues arising from this proposal are:**

- **Compliance or otherwise with the Development Plan and the NPPF**
- **Impact upon the character of the area**
- **Impact on amenity of nearby residential occupiers.**

The application is required to be presented to the Committee due to the level of public interest.

**Relevant History:-**

**15/00924/VAC Variation of condition 2 (Plans) of (15/00604/REM) Permitted**

**15/00604/REM** Residential development of 2 No dwellings. **Permitted**

**15/00035/OUT** Residential development of 2 No dwellings **Permitted**

**Planning Policies: -**

Melton Local Plan (saved policies):

**Policy OS1** – allows for development within the town and village envelopes providing that (amongst other things):-

- 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 development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing developments in the vicinity.

**Policy BE1** - allows for new buildings subject to criteria including buildings designed to harmonise with surroundings, no adverse impact on amenities of neighbouring properties, adequate space around and between buildings, adequate open space provided and satisfactory access and parking provision.

The National Planning Policy Framework 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:
  - o 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
  - o specific policies in this 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.

On Specific issues it advises:

**Core Planning Principles**

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

**Require Good Design**

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

This 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 para. 12)

**Consultations:-**

Consultation Reply	Assessment of Head of Strategic Planning and Regulatory Services
<b>Bottesford Parish Council</b> <ul style="list-style-type: none"> <li>The Parish Council support the proposal</li> </ul>	Noted

**Representations:-**

A site notice was posted to advertise the application and neighbours consulted by letter. As a result, 8 representation of objection from 7 households have been received for the application.

Representation	Assessment of Head of Strategic Planning and Regulatory Services
<b>Residential Amenity</b> <ul style="list-style-type: none"> <li>Opening windows such as those fitted contrary to Condition 3, afford neither privacy nor protection from noise to neighbours.</li> <li>Nothing has changed physically in the relationship of the two houses.</li> <li>Top hung windows are about the worst that could be inserted</li> <li>The boundary fence if were to be conditioned to remain in perpetuity at full height and never be permitted to be removed nor lowered, then privacy would become less of an issue here than the loss of amenity that would ensue should opening windows be permitted</li> <li>Sound is not constrained with an open window. When the windows were opened the workmen talking could be heard from within the neighbouring property.</li> </ul>	<p>The application for consideration seeks to assess whether the windows installed, that are different to those originally planned, cause an undue impact upon residential amenity as stated.</p> <p>Whilst nothing has indeed changed in the physical relationship of these houses this application still requires a robust assessment of impact to be made.</p> <p>The windows are obscurely glazed to a high level it is considered that this is not serious an impact as stated. They also need to be opened significantly before significant observations can be made from them.</p> <p>The landscaping for the site has to remain as laid out by several conditions on the application. The fence that borders both properties is considered a source of good amenity protection.</p> <p>This is noted as a concern but would not be considered sufficient to be a sole reason for refusal. The application site and the nearest residential property at 89 are separated by a public right of way of approximately 4.1m wide and with a further 0.5m either side of boundary fences there is a reasonable distance between them which is more than some other properties.</p> <p>Should noise be an issue to a significant degree that constitutes statutory nuisance then further action can be taken through Environmental Health legislation.</p>

**Other Material Considerations Not Raised In Representations:-**

Other Considerations	Assessment of Head of Strategic Planning and Regulatory Services
<p><b>The (new) Melton Local Plan – Pre submission version.</b></p> <p>The Submission version (as amended by ‘Focussed Changes’) underwent its Examination In Public in January and February 2018.</p> <p>The LPA is due to receive comments back for the plan to be considered ‘sound’ that would significantly change the policies of the plan.</p> <p>The NPPF advises that: From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:</p> <ul style="list-style-type: none"> <li>● the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);</li> <li>● the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and</li> <li>● the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).</li> </ul> <p>Specifically relating to this application:- <b>Policy D1 – Raising the Standard of Design</b> c) Buildings and development should be designed to reflect the wider context of the local area and respect the local vernacular without stifling innovative design;</p> <p>d) Amenity of neighbours and neighbouring properties should not be compromised.</p> <p>In the subtext following this policy, further clarification is given:- 9.4.11 The development should not adversely affect neighbours and nearby uses and occupiers by reason of being overbearing, overlooking, loss of privacy, loss of light, pollution (including that from artificial light) and other forms of disturbance.</p>	<p>Due to the status of the plan as stipulated opposite we therefore consider the new local plan can attract significant weight.</p> <p>The policies on amenity and design below on balance have been accorded with.</p>

**Conclusion:-**

The application seeks to make a change to a condition that has been placed to afford the highest level of protection to the closest neighbours. In this instance where this application is relevant this neighbour is number 89 Grantham Road as this property is closest to the windows that are subject to this application.

The first floor window of this new property adjacent to number 89 Grantham Road serves a bathroom and therefore the lack of amenity loss caused by being able to open the window is minimal. This room is not used continuously and therefore the issues of overlooking, subsequently causing a loss of privacy is also limited.

At ground floor level the windows of the new property face directly onto a close boarded fence where together with the heavily obscured window causes also a minimal loss of privacy in planning terms. There has been issue raised about the noise emanating from the rooms that these windows serve but this is not a considered reason on its own to refuse this application. Many houses are closer than the property closest to this application site without a public footpath in between have this arrangement and therefore this adds weight to this assessment.

Whilst disappointed that another application has been submitted to the authority as a retrospective proposal for this site, this is a legitimate process where a full consideration of the issues has been considered in full.

**In conclusion it is considered that, despite being a deviation from the approved plans, the windows that have been installed do not significantly and demonstrably cause an impact to refuse the application.**

**Recommendation: - PERMIT, subject to the following conditions:-**

1. The development hereby approved shall be carried out in accordance with plans 'Elevation Drawings November 2015' submitted the LPA on 5<sup>th</sup> March 2018.

**Officer to Contact: Mr. Glen Baker-Adams**

**Date: 13.04.2018**