

**Planning Committee 15 October 2019**  
**Report of the Planning Manager**

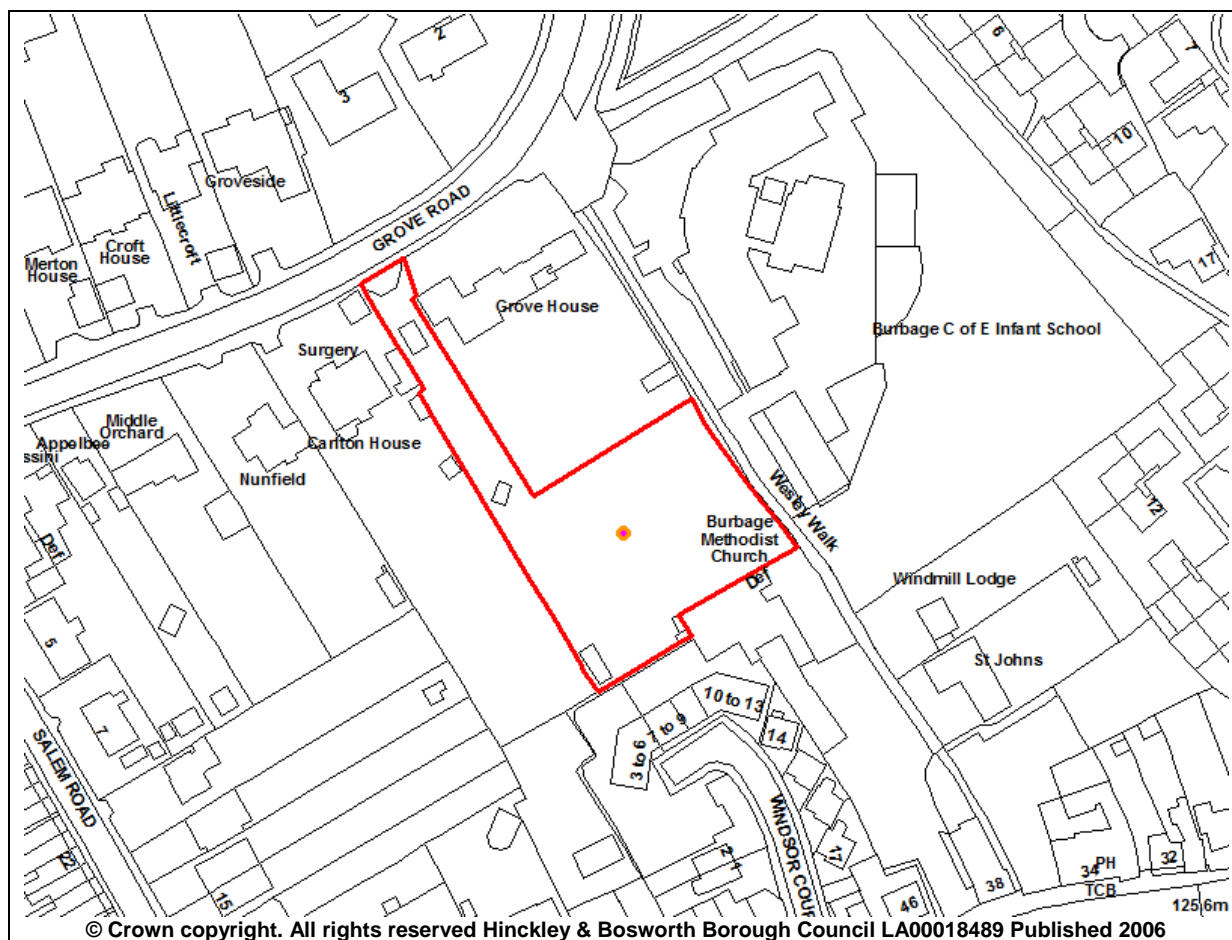
**Planning Ref:** 19/00743/FUL  
**Applicant:** Mr C J Freeman & Mrs J A Towlson  
**Ward:** Burbage St Catherines & Lash Hill



Hinckley & Bosworth  
Borough Council

**Site:** Grove House Grove Road Burbage

**Proposal:** Erection of five dwellings with vehicular access and associated parking and garages



**1. Recommendations**

**1.1. Grant planning permission subject to:**

- Planning conditions outlined at the end of this report.

**1.2.** That the Planning Manager be given powers to determine the final detail of planning conditions.

**2. Planning Application Description**

**2.1.** This application seeks full planning permission for the erection of five dwellings on land to the rear of Grove House, Grove Road, Burbage.

**2.2.** The submitted plans show the existing garden serving Grove House being subdivided, with five new dwellings to the rear. An existing garage to the side of the property would be demolished to make way for the access to the new dwellings,

which would run along the side boundary with Carlton House. A number of ancillary garden outbuildings, together with an underground brick shelter and boundary trees, would also need to be removed for the new access. Car parking spaces for four of the dwellings would include garage spaces as well as on site parking. A pedestrian-only access on to Wesley Walk would also be provided.

2.3. The proposal comprises:

- Unit 1 – one-and-a-half storey 3-bedroom dwelling
- Unit 2 – one-and-a-half storey 4-bedroom dwelling
- Unit 3 – two storey 4-bedroom dwelling
- Unit 4 – one-and-a-half/two-storey 3-bedroom dwelling
- Unit 5 – two storey 5-bedroom dwelling

2.4. The application is accompanied by a Design & Access Statement, an Archaeological Heritage Assessment, an Ecological Impact Assessment, an Arboricultural Report and a Road Traffic Noise Assessment.

### 3. Description of the Site and Surrounding Area

3.1. The application site comprises an area of garden land to the rear of Grove House, It is generally rectangular in shape and, whilst it is maintained, is clearly an underused part of the residential curtilage of the property. A mature hedgerow separates the site from the main part the garden lying immediately to the rear of Grove House.

3.2. Site levels are relatively flat with two storey residential properties immediately to the rear (south) and Burbage Methodist Church, which backs on to the south-east corner of the site. There are similarly large, detached dwellings located to the west, along Grove Road. To the north-east, the site is bounded by a public footpath (Wesley Walk), beyond which is Burbage C of E Infant School. With those two exceptions, the area otherwise comprises primarily residential development of varying styles and design. The application site is located within the settlement boundary of Burbage. The eastern boundary of the Burbage Conservation Area is located approximately 50metres from the proposed access and 80 metres from the north-eastern corner of the proposed site, which shares its boundary with Wesley Walk. A tree preservation order is located to within the neighbouring dwelling, Carlton House, and within the boundary of the access proposed to serve the dwellings (ref:96/00011/TPORD)

### 4. Relevant Planning History

00/00223/FUL	Single storey front and rear extensions	Permitted	17.04.2000
03/01495/OUT	Residential development (Renewal of 01/00283/OUT)	Approved	07.06.2004
01/00283/OUT	Residential Development (Renewal of 98/00647/OUT	Approved	16.05.2001
98/00647/OUT	Residential development (Renewal of 96/00146/OUT)	Approved	08.09.1998

96/00146/OUT	Residential development (Renewal of 92/01014/4)	Approved	23.04.1996
92/01014/4	Erection of three dwellings	Refused	23.12.1992

## **5. Publicity**

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and eight objections have been received from 8 separate addresses, raising the following concerns:-

- 1) The density of development is considered excessive when compared to the 3 dwellings previously approved;
- 2) It is not in keeping with the existing texture and character of the built up area or the size and scale of neighbouring dwellings;
- 3) It does not protect the locally listed status of Grove House and will result in overdevelopment of one of the most iconic houses in Grove Road;
- 4) It will harm the amenity of neighbours including loss of privacy by overlooking and light pollution;
- 5) An additional access and traffic will be harm highway safety, especially in regard to schoolchildren;
- 6) How will waste collection and bin storage be carried out?
- 7) Oppressive impacts on outlook from the rear of neighbouring properties
- 8) Loss of property value;
- 9) Insufficient parking provision will lead to parking congestion and further harm to road safety;
- 10) Potential residents should be aware that the Burbage Methodist Church, which backs on to the site, is illuminated at night and has air conditioning units;
- 11) Burbage Neighbourhood Plan identifies a need only for small and medium houses, not large ones;
- 12) It will result in loss of wildlife and habitat;
- 13) The loss of features will change the nature of the setting of the locally listed building. It will also reduce the capacity for biodiversity enhancement. The design does not use green roof technology;
- 14) It will create a precedent for other similar developments, eroding the beauty and character of Grove Road;
- 15) It will result in the loss of an air raid shelter;
- 16) Any windows facing across the school should have frosted glass;

## **6. Consultation**

6.1. Burbage Parish Council objects for the following reasons:-

- 1) It will increase vehicular and pedestrian conflict on a bend in the road, particularly on weekdays during school term times;
- 2) The immediate vicinity becomes heavily congested and the increase in traffic movements would increase highway dangers compounded by a lack of visibility for vehicles exiting the access road;

6.2. No objection subject to conditions from:-

- 1) LCC Highways
- 2) LCC Ecology
- 3) HBBC Environmental Health (Drainage)
- 4) HBBC Waste

6.3. No objection from HBBC Environmental Health (Pollution)

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Burbage Neighbourhood Plan (BNP) 2015 – 2026 (Pre-submission Draft)

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)
- Planning (Listed Buildings and Conservation Areas) Act (1990)
- Burbage Conservation Area Appraisal

## **8. Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon Trees
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Impact upon Archaeology
- Impact upon Ecology
- Obligations
- Other issues

### Assessment against strategic planning policies

8.2. Paragraph 2 of the National Planning Policy Framework Feb 2019 (“NPPF”) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with up-to-date development plan permission should not usually be granted unless other material considerations indicate otherwise.

8.3. The development plan in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).

- 8.4. The Burbage Neighbourhood Plan (BNP) has recently been submitted to the Local Planning Authority and is at Regulation 16 Stage. The Neighbourhood Plan is currently out for public consultation and this is due to end of the Monday, 28th October 2019. After this consultation all representations received will be submitted to an examiner who will consider the Neighbourhood Plan. It is anticipated that if the Examiner recommends that the Plan should be 'made' a referendum will take place in April/May 2020 and if successful will be adopted April/May 2020. Therefore, only very limited weight can be afforded to this emerging document at this time.
- 8.5. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6. The application site is located within the settlement boundary of Burbage. Policy 4 of the adopted Core Strategy supports development within the settlement boundary of Burbage, which has access to a range of services and facilities and sustainable transport modes. The Council will support housing developments within settlement boundaries that provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16.
- 8.7. In addition to the above, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.8. By virtue of its location, together with the small scale of development, the proposal would not result in any conflict with Policy 4 of the adopted Core Strategy or with the emerging BNP in strategic terms. It is therefore considered to be acceptable in principle, subject to all other planning considerations being satisfactorily addressed.

#### Design and impact upon the character of the area

- 8.9. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.10. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. Policy DM12 states that "development proposals should ensure the significance of a conservation area is preserved and enhanced" and that "assets identified on the Locally Important Heritage Asset List" should be retained and enhanced wherever possible. The significance of the assets illustrated in the List and the impact on this significance should be demonstrated and justified in line with Policy DM11". The SADMP DPD also states that "development proposals should make every effort to retain the significance of locally listed heritage assets". Policy DM11 requires that all development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate:
- a) An understanding of the significance of the heritage asset and its setting, and
  - b) The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and

c) How the benefits of the proposal will outweigh any harm caused

- 8.11. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 193 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account. In weighing applications that directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.
- 8.12. Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.13. Policies 2 and 4 of the emerging BNP support residential proposals that do not cause adverse impacts on the character of the area, are within the continuity of existing frontage buildings, are comparable in layout, size, scale and design to neighbouring properties and retain important natural boundaries.
- 8.14. Grove House is a large dwelling and represents a high quality representation of the inter-war domestic architectural style with a relatively high status. The dwelling is of high quality with Domestic Revival and Neo Classical architectural influences, these being typical of dwellings of relatively high status. The original construction is largely unaltered and retains a great deal of integrity. The house is set within a large plot which allows for the appreciation of the scale with the building having a visual prominence within the streetscene. Similarly large plots are located in the vicinity and as such it is also considered to have group value.
- 8.15. For these reasons the building is of historic and aesthetic value, and given its age, integrity, landmark quality and group value, Grove House is of special local significance, therefore it should be considered as a local heritage asset (a non-designated heritage asset in terms of the NPPF (para.193).
- 8.16. Burbage Neighbourhood Plan Group have also identified Grove House as a Local Heritage Asset within their draft Burbage Neighbourhood Plan submission. It goes on to state that the effect of a proposal on the significance of local heritage assets will be taken into account when determining an application in order to minimise the conflict between the heritage assets' conservation and any aspect of the proposal. Development proposals that conserve or enhance a local heritage asset will be supported.
- 8.17. The proposal would seek to remove an existing post war-WWII detached garage, which is of no historic interest, positioned to the south west of Grove House to provide access to the land to the rear and the proposed five detached dwellings. The proposed development would reduce the depth of the garden serving Grove House, by approximately 30 metres, which would be approximately half the rear garden depth. There are no proposed alterations to Grove House, however a former air raid shelter would be demolished.
- 8.18. The proposal would have no direct impact upon the aesthetic value and integrity of Grove House. The garage which would be demolished to provide access to the site is of no historical interest. The proposed dwellings by virtue of their siting, to the rear of Grove House and the two storey scale, ensure that they would not be particularly visible from Grove Road, which ensures that Grove House would continue to be a landmark within the street scene and the historic and aesthetic significance offered by this quality can continue to be appreciated. The extent of the depth of the plot to Grove House would be reduced by the proposed development; however Grove House would retain a larger and wide garden allowing a sense of

higher status and its associated historic interest to be retained. Overall it is considered that the proposal would have no adverse impact upon the significance of Grove House.

- 8.19. The former air raid shelter which is located within the rear garden is considered to be of limited historic interest and, as suggested in the Archaeological Heritage Statement which accompanies the application, a programme of building recording prior to the commencement of any development, which has been considered by Leicestershire County Council (Archaeology) and considered appropriate should permission be granted.
- 8.20. As identified above the Burbage Conservation Area is located approximately 50m from the proposed application site access and approximately 80m from the north-eastern corner of the proposed site, therefore it must be assessed if the site falls within the setting of these assets. The NPPF (Annex 2) defines the setting of a heritage asset as “the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.” Historic England provide advice on the setting of heritage assets in their Good Practice in Planning Note 3 (2015), this identifies that the surroundings in which an asset is experienced may be more extensive than its curtilage. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way which we experience an asset in its setting is also influenced by other factors such as noise, dust and vibrations from other land uses in the vicinity, and by our understanding of the historic relationship between places. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to access or experience that setting as this will vary over time and according to circumstance.
- 8.21. Historic England recommends undertaking a five step approach to assessing change in the setting of heritage assets. The first step is to identify which heritage assets and their settings of affected by the proposal. There is some distant inter-visibility between Pughes Paddock at the western edge of the conservation area and the frontage of Grove House. The western section of the conservation area is characterised by a number of mature trees located around Pughes Paddock and within the grounds of the Moat House care home. It is likely that a small number of these trees are visible from the application site looking north-eastwards. As a result it is considered that the application site is located within the extended setting of the conservation area.
- 8.22. Step 2 is to assess the degree to which these settings make a contribution to the significance of the heritage asset or allow that significance to be appreciated. There are a number of mature trees within the front garden and along the front boundary to Grove House. There is a limited visual relationship between the western section of the conservation area and the application site and any views between the two are set within the context of existing development, including large buildings set within mainly verdant plots. The application site has similar verdant characteristics to the western section of the conservation area but given the distance between them and the associated limited inter-visibility it is considered that the application site only makes a neutral contribution to the significance of the conservation area.
- 8.23. Step 3 is to assess the effects of the proposed development, whether beneficial or harmful, on the significance of the conservation area or on the ability to appreciate that significance. When viewed from Pughes Paddock the frontage of Grove House itself would remain unaltered and the visual impact of creating the access driveway

is considered negligible. Any possible views of mature trees located within the conservation area from the application site itself are likely to remain possible due to the siting of the proposed dwellings so the verdant character of the conservation area can continue to be appreciated. Existing trees and hedgerows on the site are to be retained which would maintain the verdant character of the setting of the conservation area along Grove Road. Such vegetation would also screen the development to a certain degree from the wider area. Due to the siting of the site access and proposed dwellings and the retention of mature trees and vegetation within the grounds the neutral contribution the application site makes to the significance of the conservation area would be maintained and therefore the impact of the development on its significance is not considered to be adverse.

- 8.24. Step 4 in the Historic England assessment approach is to explore ways to maximise enhancement and avoid or minimise harm, but given the neutral impact of the proposal on the significance of the conservation area it is not considered that any actions to meet this aim are necessary.
- 8.25. Step 5 relates to making and documenting the decision and monitoring outcomes. Such recommended good practice has been achieved by setting out the assessment stage of the decision-making process in an accessible way in the body of this report.
- 8.26. The existing area comprises a mix of design, styles and types of properties with the existing property being a two storey dwelling. However, the area is generally characterised by detached or semi-detached dwellings with very long rear gardens. Although there is no development in depth on Crossways itself, there are examples within the vicinity of the application site, including off Turville Close, immediately to the west of the site and off Coventry Road, to the south of the site.
- 8.27. Of particular note is an existing 'backland' development at 54a Coventry Road (ref.no. 06/01069/FUL), which is for a hipped-roof single-storey dwelling. An appeal inspector on an earlier application at this site (ref.no. 04/01350/FUL) dismissed an appeal on amenity grounds due to traffic movements, but otherwise concluded that the proposal would not be out of character. Similarly, a proposed development nearby, at 42 Coventry Road (ref.no.17/00552/OUT) was also refused on appeal, but, in that case, on highway grounds. Again, the Inspector considered that 'backland' development was an established character of the area.
- 8.28. The access to the proposed dwellings would be from one of the existing access points serving Grove House with an internal access road running along the side of the site. The layout provided shows five dwellings in a private courtyard formation, with plot 5 providing a focal point to the end of the access, with all the remaining plots designed smaller in terms of footprint, and individually designed. The surrounding area is characterised by a large variety in designs of dwelling. The proposed dwellings have been designed and characterised to complement the surrounding area, including detailed designs such as headers to windows, chimneys, eaves detailing. The dwellings are to be constructed of brick and tiles, as well as rendering incorporated into plots. However external finishes would be controlled by way of a condition to ensure they are reflective and complementary of the wider area.
- 8.29. As such, having regard to the design and layout of the proposed development, it is considered that the layout would be consistent with the character of the area. To ensure that the significance of Grove House remains, it is necessary that finished floor levels are submitted to ensure that the development does not appear unduly prominent within the setting of a non-designated heritage asset, as well as full hard



and soft landscaping scheme, to ensure verdant character is maintained and enhanced.

- 8.30. In terms of the site itself, the proposed subdivision would provide satisfactory space for new dwellings of appropriate size, with more than adequate amenity areas for both the existing and proposed dwellings being maintained and provided.
- 8.31. In conclusion it is considered that despite a reduction in the extent of its plot the key elements of significance of the local heritage asset known as Grove House would be retained and preserved. The loss of a former air raid shelter of limited interest as part of the development could be satisfactorily mitigated by a programme of historic building recording. The application site is located within the extended setting of the Burbage Conservation Area, by virtue of the siting of the site access and proposed dwellings and the retention of mature trees and vegetation within the site the neutral contribution the application site makes to the significance of the conservation area would be maintained therefore the impact of the development on its significance is not considered to be adverse. For these reasons it is considered that the proposal complies with Policies DM10, DM11 and DM12 the SADMP, section 16 of the NPPF and the statutory duty of section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

#### Impact on trees

- 8.32. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation value and retain, buffer or manage favourably such features. Policy DM10 of the adopted SADMP requires development to incorporate a high standard of landscaping where this would add to the quality of the design.
- 8.33. There are a number of mature trees within and surrounding the site that contribute to the visual amenity of the surrounding area the trees to the front of the application site. An existing Tree Preservation Order (TPO) is in situ upon the neighbouring property and includes a large Chestnut which borders the application site access. The proposed layout has been designed to enable the important trees on the site to be retained. However, in order that the trees are protected before, during and post development it would be reasonable and necessary to require the submission of an Arboricultural Method Statement, a site specific No-Dig Driveway Construction Method Statement and site specific Tree Protection Plan, prepared by a suitably qualified arboriculturist, to be submitted for prior approval in line with previous advice from the Borough Council's Arboricultural Officer to meet the requirements of Policies DM6 and DM10 of the adopted SADMP.

#### Impact upon neighbouring residential amenity

- 8.34. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.35. The application site is situated within a predominately residential area. The whole application site occupies over half of the area of the existing garden. To the south the application site backs onto the rear elevations of Windsor Court and the side elevation of Burbage Methodist Church. The rear elevations of Plots 3 – 5 would back onto these properties. Windsor Court is a two storey complex set away from the boundary by approximately 9 metres, affording an area of parking serving the residents, and the existing boundary comprises of a mix of mature hedging interspersed with trees. Plot 5 would have a rear garden depth of approximately 12 metres, with an overall height of approximately 8.8 metres. Given the separation distance which would be in excess of 20 metres, from the proposed rear elevation windows serving plot 5 and those windows contained within the rear elevations of

Windsor Court, the proposed dwelling would not result in any significant overbearing impacts or loss of light or loss of privacy to the windows or private residential amenity areas serving Windsor Court. This is further reduced due to the existing boundary treatments along the boundary.

- 8.36. Situated to the west of the application site, the site is adjoined by Carlton House, which is a large two storey detached dwelling, set away from the shared boundary by approximately 6 metres. The internal access road to the dwellings would run along the boundary with Carlton House. The application has been supported by a Road Traffic Noise Report, which models the sound pressure levels at existing residential receivers due to road traffic sources from this proposal, specifically along the internal access road which would serve the development. The report identifies that the change in sound pressure levels as a result of road traffic using the proposed access would have a negligible impact in both short and long terms, and would not be sufficient to necessitate the requirement of noise insulation. Environmental Health have considered the application and supporting documents and have no objections to the proposed development. Given the supporting noise report and taking into the consideration the extensive wide and long garden which serves Carlton House, it is not considered that the introduction of an internal access serving dwellings to the rear of the site would result in an adverse impact upon this dwelling, in terms of noise and disturbance.
- 8.37. Plot 5 would be situated immediately adjacent to the west facing boundary of Carlton House, and would be set away from the boundary by approximately 2.5 metres. There are two first floor windows which would face towards Carlton House, which would serve a proposed dressing room and a secondary window to a master bedroom. Given this relationship to Carlton House, it is necessary to impose a condition to ensure that they are obscurely glazed and retained.
- 8.38. Plot 1, is situated to the north eastern side of the proposed access, set in from the boundary of Carlton House by approximately 11 metres, and is a two storey dwelling. There are first floor windows situated within the south west facing elevation which would serve bedrooms, however given the separation distance, across an access, it is not considered that this relation would result in significant overlooking or loss of privacy to the rear amenity serving Carlton House. The rear elevation of Plot 1 would be situated within a metre of the rear boundary of Grove House, there is a first floor window which serves a bathroom. Given this close relationship it would be necessary to ensure that this window is conditioned to be obscurely glazed. The rear garden to be retained for Grove House, would be in excess of 30 metres, therefore given the extensive length of the garden which would be retained and the scale of the proposed dwellings, it is not considered that the proposed dwellings would have any adverse impact in terms of overbearing or overshadowing to this dwelling.
- 8.39. Plot 2 is also situated in close proximity to the boundary of Grove House, and would be orientated to face south west, therefore resulting in the side elevation of Plot 2 facing towards the rear amenity space of Grove House. There is proposed a small first floor window which would face towards Grove house, which is proposed to serve an ensuite. Similarly to Plot 1, it would be necessary to ensure that this window is obscurely glazed and retained given this close proximity to Grove House. The rear of Plot 2 would face towards Burbage Infant School, there is a public footpath present between, known as Wesley Walk. The garden depth of Plot 2 would be approximately 10 metres, with the school positioned approximately 20 metres from the proposed rear elevation, with any views being limited to the existing roof scape of the school.

- 8.40. The rear elevations of plots 3 and 4 do not extend to the extent of Plot 5. The rear elevation of Plot 3 would face towards the side elevation serving Burbage Methodist Church, which has two high level windows which face onto the application site. The rear elevation of Plot 4 would also face this side elevation of the Methodist Church and a parcel of land situated to the west of the front elevation of the Methodist Church, Windsor Court continues beyond. A footpath would extend along the rear garden areas of Plots 3 and 4 from Wesley Close. Given the use of this neighbouring building, and the relationship between the proposed dwellings and the existing Church, it is not considered that the proposed development would have any adverse impacts to the Church, and there would be no adverse impact upon future residents which would arise from the existing use of this building.
- 8.41. The proposed dwellings would be served by reasonably sized gardens to provide adequate amenity space of future occupiers. The dwellings would be sufficiently separated from one another to avoid overlooking or inter visibility of windows. Therefore the proposed layout would afford future occupiers a reasonable level of amenity.
- 8.42. The development has been designed to ensure there would be no adverse impact upon the amenity of existing and future occupiers and is therefore in accordance with Policy DM10 of the SADMP.
- Impact upon highway safety
- 8.43. Policy DM17 of the SADMP supports development proposals where they demonstrate that there would be no adverse impacts on highway safety and that development is located where the use of sustainable transport modes can be maximised. Policy DM18 of the SADMP seeks an appropriate level of parking provision within sites to serve the development. Policy 5 of the emerging BNP requires two off-street parking spaces to be provided for each new dwelling, unless it is unachievable.
- 8.44. The proposal seeks access off Grove Road, to serve a development of 5 dwellings to the rear of Grove House. A development for five new dwellings which would not result in traffic movements on a scale that that would exceed the capacity of the highway network.
- 8.45. The submitted proposal demonstrates that the proposed access is capable and can achieve adequate visibility to accord with Leicestershire Highway Design Guide. The Local Highway Authority has reviewed personal injury collision data for the most recent 5 year period, and there has been no recorded personal injury collision with the vicinity of the site. The proposed layout would provide a minimum of two off-street parking spaces to serve each of these three to five bedroom plots within detached garages and forecourt hardstanding providing parking and turning space within the site.
- 8.46. Leicestershire County Council (Highways) has assessed the scheme and raises no objection in principle subject to the imposition of a number of highway related conditions to control and manage construction traffic and surface water and the provision of satisfactory access and off-street parking provision in accordance with the submitted site layout plan and highway design guidance.
- 8.47. Subject to development in accordance with the recommended conditions, the proposal would be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Drainage

- 8.48. Policy DM7 of the adopted SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.49. The application site is within Flood Zone 1, (low less than 1 in 1,000 annual probability of flooding). Environmental Health (Drainage) has assessed the information submitted and raises no objection in principle to the scheme subject to a planning condition being imposed to require the submission of a surface water drainage system incorporating sustainable drainage principles for prior approval to ensure that the development would be compatible with Policy DM7 of the adopted SADMP.

#### Impact upon Archaeology

- 8.50. Policy DM11 and DM12 of the adopted SADMP seeks to ensure that development proposals shall protect, conserve and enhance the historic environment.
- 8.51. The application site is situated within an area of archaeological interest as identified within The Leicestershire and Rutland Historic Environment Record. The site is situated within the medieval and post medieval historic settlement core of Burbage (HER ref:MLE2848), as such it is anticipated that the site has the potential to contain buried above ground evidence of the occupation and settlement of the village dating from early medieval period to modern times. It is also possible that unrelated prehistoric and Roman remain may occur within the area, namely the supposed discovery of a Roman mosaic floor in the Horsepool/Croft area of Burbage (MLE7936). It is adjacent to Burbage Wesleyan Chapel and Day School (HER Ref:MLE18023 and MLE18024).
- 8.52. The development proposals include works such as foundations and services which would likely impact upon those remains. Leicestershire County Council (Archaeology) do not object to the proposal. It seeks further information with regard to the archaeological evaluation of the site. This information can be secured by condition and is considered to be a reasonable approach to ensure that any archaeological remains present are treated appropriately. Subject to the inclusion of this condition the development would not have a detrimental impact upon the understanding of the significance of any heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

#### Impact upon Ecology

- 8.53. Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 8.54. The application was accompanied with an Ecological Survey, which identifies that the building on site, which are proposed to be demolished are considered to be unsuitable to support roosting bats, and no evidence of other protected species was recorded, and the site was generally considered to have a low potential to supported protected species, however would have the potential to support nesting birds. As such given the findings contained within the Ecology report, LCC (Ecology) have no objection to the proposed development submitted to the development being carried out in accordance with the recommendations contained within the Section 5 of the report. Therefore subject to a condition, the development would accord with Policy DM6 of the SADMP.

### Obligations

- 8.55. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.56. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.57. The nearest public amenity space to the application site is Britannia Road (reference BUR45) and Hinckley Road (reference BUR36) both of which have quality scores 78% and 74% in the Open Space and Recreation Study (2016) which is close to the target quality score of 80%.
- 8.58. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.59. However, in this case, the proposal is for only five additional dwellings which would not have any significant impact on existing play and open space facilities. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

### Other matters

- 8.60. Street Scene Services (Waste) advises that refuse and recycling collection is from the public highway and therefore it is necessary to impose a condition to secure waste collection and storage across the site is submitted and agreed prior to the development being occupied.
- 8.61. Objections have been received in respect to loss of property value. Value of properties is not a material planning consideration, and therefore is not a matter which can be taken into consideration as part of this application.

## **9. Equality Implications**

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
  - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

- 10.1. The application site is within the settlement boundary of Burbage where sustainable residential development is acceptable in principle, in accordance with Policy DM1 of the SADMP.
- 10.2. The application site is considered to be situated to within the extended setting of the Burbage Conservation Area, and Grove House is also identified as a Local Heritage Asset, and as such given its given its landmark value, Grove House is considered as a local Heritage Asset. The proposed development due to its siting, scale and relationship to Grove House and the Conservation Area, is not considered to result in and adverse impact upon the significance of Grove House, and the due to the siting of the site access, and the retention of mature trees and vegetation within the grounds the neutral contribution the application site makes to the significance of the conservation area would be maintained. The proposed development by virtue it is proposed layout, scale, design and appearance would not give rise to any material adverse impacts on the amenities of the occupiers of any neighbouring properties. The proposed layout also allows adequate access and off-street vehicle parking and turning to be provided within the site to ensure that it would not result in any adverse impact on highway safety, and subject to conditions would not result in an impact upon Archaeology.
- 10.3. The proposed scheme is considered to be in accordance with Policy 4 of the Core Strategy and policies DM1, DM6, DM7, DM10, DM11, DM12, DM13, DM17 and DM18 of the SADMP.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.
- 11.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 11.3. **Conditions and Reasons**
1. The development hereby permitted 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 by the Planning and Compulsory Purchase Act 2004.
  2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:  
Proposed Site Location and Block Plan Dwg No.4363/01  
Proposed site layout Dwg No.4363/02 Rev A  
Plot 1, General Arrangement, Drg No. 4363/10  
Plot 2, General Arrangement, Drg No. 4363/20

Plot 3, General Arrangement, Drg No. 4363/30  
Plot 4, General Arrangement, Drg No. 4363/40  
Received on the 4 July 2019

Plot 5, General Arrangement, Drg No. 4363/50 Rev A  
Received on the 18 September 2019.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. The development hereby permitted shall not be occupied until a scheme that makes provision for waste and recycling storage and collection for the site have been submitted to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The development shall thereafter be carried out in accordance with the approved details.

**Reason:** To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme, in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

5. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no gates, barriers, bollards, chains, or other such obstructions shall be erected to the vehicular access within a distance of 5 metres of the highway boundary.

**Reason:** To allow vehicles to stand clear of the highway in the interests of highway safety to accord with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

6. Prior to occupation of any dwelling hereby permitted, details of the removal or lowering of vegetation or any other obstruction such as walls/ fences which fall within the visibility splay either side of the site access to 0.6 metres or below has been submitted to and agreed in writing by the Local Planning Authority. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway

**Reason:** To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway

7. No development above foundation level of the dwelling hereby permitted shall take place until representative samples of the types and colours of materials

to be used on the external elevations of the dwelling have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The window situation within the first floor of the north west elevation of Plot 1, the window situated within the first floor north west facing side elevation facing of Plot 2, and the windows within the first floor south west facing side elevation of plot 5 shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable. Once so provided the windows shall be permanently maintained as such at all times thereafter.

**Reason:** To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

9. Before any development commences on the site, including site works of any description, an Arboricultural Method Statement and Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in strict accordance with the approved details.

**Reason:** To ensure the existing trees to be retained and their root systems are adequately protected during construction in the interests of conserving the visual amenity of the area and biodiversity of the site to accord with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

10. No development shall take place on the site, including site works of any description, until a site specific no-dig drive construction method statement to satisfactorily demonstrate that no-dig surfacing is fit for purpose has been submitted to and approved in writing by the local planning authority. The development shall subsequently be implemented in strict accordance with the approved details.

**Reason:** To ensure that trees and their root systems are not damaged during construction and that soil bulk density will not be increased and be detrimental to long-term tree health in the interests of conserving the visual amenity and biodiversity of the site in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

11. No development shall commence until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** To ensure that the development is provided with satisfactory surface water drainage and does not create or exacerbate flooding in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2012).



12. Prior to commencement of development, including any site works, a Construction Environmental Management Plan shall be submitted to and agreed in writing by the local planning authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

**Reason:** To protect the amenity of the occupiers of neighbouring dwellings in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a) Means of enclosure
- b) Hard surfacing materials
- c) Planting plans
- d) Written specifications
- e) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- f) Implementation programme.

**Reason:** To enhance the appearance of the development, to protect the privacy and amenity of the future occupiers of the dwellings hereby permitted and the occupiers of neighbouring properties and to ensure that the works are carried out in a reasonable period of time to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. The approved hard and soft landscaping scheme shall be carried out in the first planting season following the first occupation of the dwelling to which it relates. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

**Reason:** To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. Before the first occupation of any of the dwellings hereby permitted, the access drives, off-street parking spaces and turning areas shall be implemented and completed in accordance with the details submitted on site layout Dwg No.4363/02 Rev A. Once provided the accesses, off-street parking and turning facilities shall be permanently retained as such at all times thereafter.

**Reason:** To ensure adequate access, off-street parking and turning provision is available to serve the new dwellings to reduce the possibility of the proposed development leading to on-street parking problems locally and to

enable vehicles to enter and leave the site in a forward direction in the interests of highway and pedestrian safety in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

16. Before first occupation of any of the dwellings hereby permitted, the access drives, parking spaces and turning areas shall be surfaced with tarmacadam or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be permanently so maintained at all times thereafter.

**Reason:** To reduce the possibility of deleterious material (loose stones etc.) being deposited in the highway in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

17. No development shall commence until a Written Scheme of Investigation (WSI), informed by an initial stage of trial trenching, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include that statement of significance and research objective, and

- The programme and methodology of site investigation and recording and nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD.

18. No development or demolition shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. For the land and structures that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure a satisfactory historic building survey and to record and advance understanding of the significance of the affected resource prior to its loss in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD.

19. The development shall be carried out in full accordance with the mitigation strategy, specified in the ecological appraisal received 4 July 2019.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. This permission is based on the submitted indicative layout received 29 July 2019. Reserved matters details will be expected to be in general conformity with this layout.
3. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
5. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
6. Where there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, the applicant will require consent under Section 23 of the Land Drainage Act 1991. This is in addition to any planning permission that may be granted. Guidance on this process and a sample application form can be found via the following website: <http://www.leicestershire.gov.uk/Flood-risk-management>. No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
7. Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites

surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).