

**Planning Committee 31 January 2017  
Report of the Head of Planning and Development**



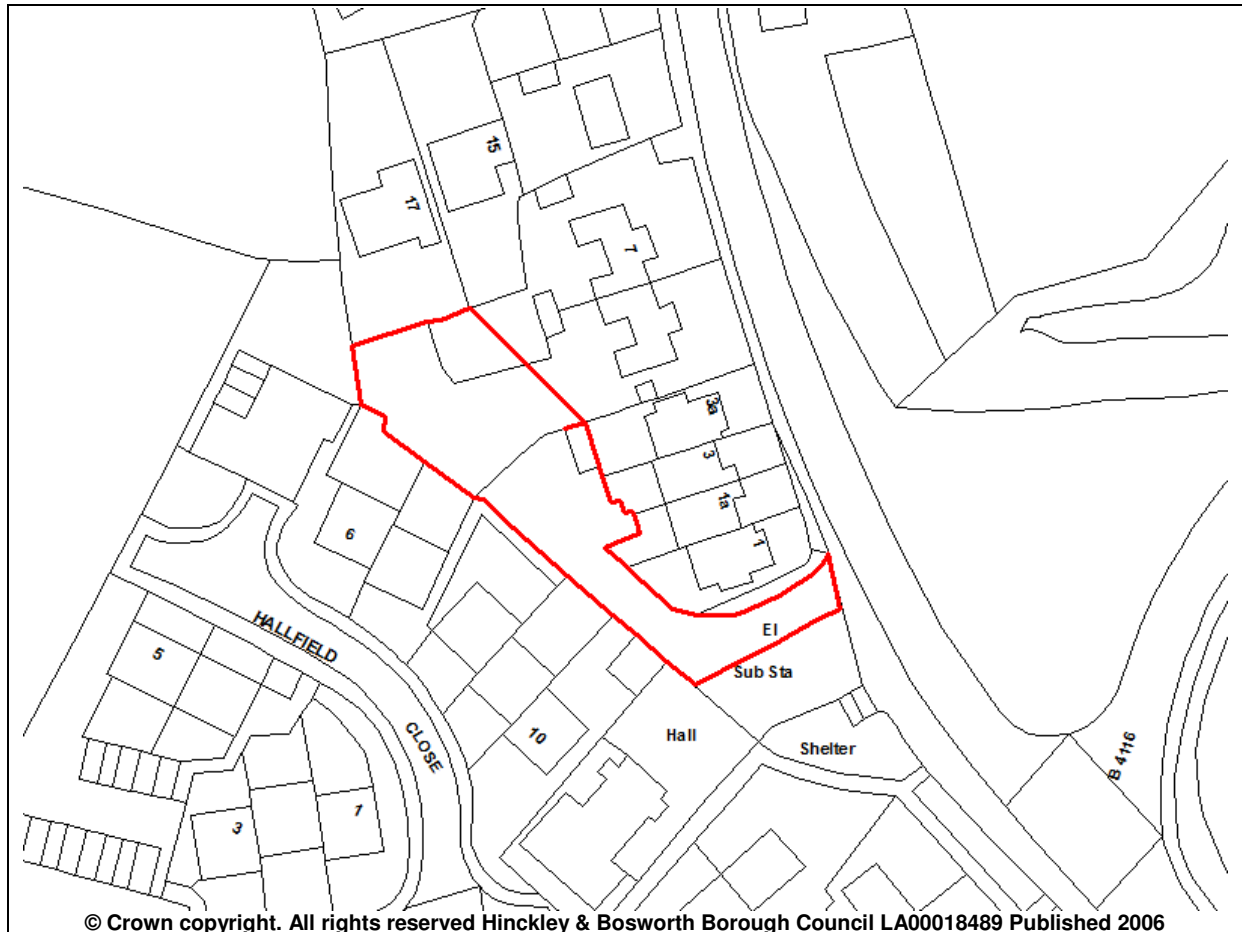
Hinckley & Bosworth  
Borough Council

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**Planning Ref:** 16/00925/FUL  
**Applicant:** P A Wright And Sons  
**Ward:** Twycross Sheepy & Witherley

**Site:** 1 Burton Road Twycross

**Proposal:** Erection of one dwelling and garage



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**1. Recommendations**

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

- Planning conditions outlined at the end of this report.

**2. Planning Application Description**

2.1. This application seeks full planning permission for the erection of a three bedroom detached dwelling and garage on a plot of vacant land. The proposed dwelling would have a dormer bungalow design with rooms in the roof space, an eaves height of 2.4 metres and a ridge height of 6 metres. It would have roof light windows to the front elevation and a non-opening dormer window with opaque glazing to the rear roof elevation. Parking would be provided within a single (part attached) garage and driveway. Access would be from an existing shared track from Burton Road.

2.2. A Planning Statement has been submitted to support the application.

- 2.3. The application site has been subject to a previously dismissed appeal decision for a larger dwelling on the site (reference APP/K2420/A/14/2223516). The main issues identified by the Inspector were: the effects on the living conditions of neighbouring occupiers in terms of light, outlook and privacy; the amenities of the future occupiers of the development; and the effect on the character and appearance of the area.

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

- 3.1. The site lies within the settlement boundary of Twycross and comprises a vacant plot of land located between the rear of 1 – 5 Burton Road, 17 Burton Road and 6 and 7 Hallfield Close, Twycross. The development area measures approximately 415 square metres (excluding the access and turning areas). The site is predominantly enclosed by close boarded timber fencing of approximately 1.8 metres in height.
- 3.2. The surrounding area has a varied pattern of built development with a variety of plot size, depth and shape and a mix of housing types, scales and architectural styles within the vicinity. There are semi-detached and terraced bungalows on Hallfield Close to the south west of the site, modern detached two storey houses to the north (Nos. 17 and 15 Burton Road), a pair of semi-detached bungalows with traditional design and steep pitched roof form to the east (Nos. 5 and 7 Burton Road) and a recently constructed terrace of two storey houses to the south east (Nos. 1, 1A, 3 and 3A Burton Road).
- 3.3. The application site has a slightly lower ground level than the bungalows to the south west on Hallfield Close but otherwise there are no significant variations in land levels.

### 4. Relevant Planning History

16/00013/VCON	Variation of condition 2 of planning permission 10/00133/FUL to allow for the removal of two car parking spaces	Appeal Allowed	28.06.2016
15/00624/CONDIT	Variation of condition 2 of planning permission 10/00133/FUL to allow for the removal of two car parking spaces	Refused	21.10.2015
14/00009/PP	Erection of 3 bedroomed detached dwelling and revised car parking layout to serve existing neighbouring dwellings	Appeal Dismissed	17.11.2014
14/00060/FUL	Erection of 3 bedroomed detached dwelling and revised car parking layout to serve existing neighbouring dwellings	Refused	05.06.2014
13/00928/FUL	Erection of one new dwelling	Withdrawn	13.12.2013
10/00133/FUL	Demolition of existing dwellings and erection of 4 new dwellings.	Permitted	15.07.2010

### 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.

5.2. Responses have been received from five separate addresses including the Twycross Parish Council raising objections to the proposal on the following grounds:-

- 1) Land ownership/rights of access/access maintenance issues
- 2) Will exacerbate existing parking and manoeuvring issues
- 3) Contrary to Supplementary Planning Guidance for New Residential Development
- 4) Loss of light and privacy due to constricted site and proximity
- 5) Inadequate privacy for future occupier due to overlooking

5.3. One letter of support for the proposal has been received.

## **6. Consultation**

6.1. No objections, some subject to standing advice, have been received from:-

Leicestershire County Council (Highways)  
Environmental Health (Pollution)  
Environmental Health (Drainage)  
Street Scene Services (Waste)

6.2. No response has been received from:-

Leicestershire County Council (Rights of Way)  
Ramblers Association

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)
- Community Infrastructure Levy (CIL) Regulations (2010)

## **8. Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon neighbouring residential amenity
- Design and impact upon the character of the area
- Impact upon highway safety
- Infrastructure contributions
- Other issues

#### Assessment against strategic planning policies

- 8.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. Policy 12 of the adopted Core Strategy identifies Twycross as a Rural Village where services and facilities are limited but supports some residential development within the settlement boundary of Twycross to deliver a minimum of 20 new homes to maintain existing services and community cohesion. The adopted SADMP has identified an alternative site to deliver the housing requirement for the village. However, it is considered that the provision of one additional small unit on an infill plot within the settlement boundary would not compromise the wider spatial vision for the village.

#### Impact upon neighbouring residential amenity

- 8.5. 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 and that the amenities of the future occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.6. Objections have been received on the grounds that the proposal would result in a loss of light and privacy due to the constricted nature of the site and proximity of the proposed dwelling to neighbouring dwellings and that the future occupiers would be subject to a loss of privacy from overlooking.
- 8.7. The application site has been subject to a previous application which was refused and subsequently dismissed at appeal. The main issues identified were: the effects on the living conditions of neighbouring occupiers in terms of light, outlook and privacy; the amenities of the future occupiers of the development; and the effect on the character and appearance of the area. The previous refusal and Inspectors decision are a material consideration in the determination of this planning application. In assessing the application regard should be given to the Inspectors findings and whether the new application has overcome the reasons for refusal.
- 8.8. On the first matter the Inspector concluded that the appeal proposal would materially harm the living conditions of occupiers of nearby dwellings but only in terms of the outlook of occupiers of 7 Hallfield Close. No adverse impacts in respect of loss of light or privacy from overlooking were identified.
- 8.9. The revised scheme proposes a dormer bungalow with significantly lower ridge height (1.8 metres lower) and eaves height (1.6 metres lower) than the previously proposed dwelling. In addition, the proposed dwelling would be sited between approximately 11.5 – 14 metres from the rear elevation of 7 Hallfield Close (an increase in separation of approximately 3 metres over the previously refused scheme). The ground level of the site is also slightly lower than that of these neighbouring bungalows and a close boarded timber fence of approximately 1.8 metres in height separates the plots and would provide adequate screening to protect the privacy of the respective occupiers.
- 8.10. By virtue of the reduction in ridge and eaves height of the proposed dwelling and its siting further from the rear elevation of No. 7 Hallfield Close, it is considered that the revised scheme would not result in any significant adverse impacts on the privacy

or outlook of the occupiers of 7 Hallfield Close and would overcome the previous reason for refusal in the Inspectors decision in respect of impact on the outlook of the occupiers of 7 Hallfield Close.

- 8.11. The previously refused scheme did not propose built form in direct view from the rear of 6 Hallfield Close. The revised scheme proposes a single storey garage with a blank gable with a ridge height of 4.9 metres which would be located between approximately 8.5 – 12 metres from the rear elevation of 6 Hallfield Close. By virtue of the single storey scale of the garage, separation distance, lower ground level and part screening provided by the existing close boarded timber fencing it is considered that the proposal would not result in any significant adverse impacts on the privacy or outlook of the occupiers of 6 Hallfield Close. Therefore the proposal would not be in conflict with the previous Inspectors decision.
- 8.12. 17 Burton Road is a two storey detached house located approximately 20 metres to the north of the proposed dwelling with each having a reasonable rear garden depth of approximately 10 metres. The only first floor window on the rear elevation of the proposed dwelling would be to an en-suite shower room/toilet and noted on plan to be a fixed opaque window. By virtue of the window design, scale and separation distance, it is considered that the proposal would not result in any significant adverse overbearing impacts or loss of privacy or light to the occupiers of 17 Burton Road. Therefore the proposal would not be in conflict with the previous Inspectors decision.
- 8.13. 5 and 7 Burton Road are semi-detached bungalows located to the north east of the application site and have rear gardens of approximately 13 metres in length backing onto the site. By virtue of the scale of the proposed dwelling and separation distances it is considered that the proposal would not result in any significant adverse overbearing/overshadowing impacts on Nos. 5 or 7 Burton Road and the existing close boarded timber fencing of approximately 1.8 metres in height that separates the plots would provide adequate screening to maintain privacy for the respective occupiers.
- 8.14. On the second matter, the Inspector concluded that the appeal proposal would not provide future occupiers of the development with acceptable living conditions due to the potential for an unacceptable level of noise and disturbance as a result of the inclusion of two parking spaces to serve a neighbouring dwelling within the frontage of the proposed dwelling close to a habitable room. No adverse impacts in respect of privacy from overlooking were identified.
- 8.15. The occupiers of the proposed dwelling would be subject to a degree of overlooking from the first floor rear elevation windows of No. 17. However, as with the appeal proposal, the separation distance of 20 metres between elevations would not be insignificant. Taking this into account, along with the fact that some overlooking in built up areas is inevitable, on the second matter, the Inspector (in considering the previous appeal proposal for a larger dwelling that included rear facing first floor windows) considered that the development would not result in overlooking of the proposed dwelling sufficient to form a reason to withhold planning permission. The proposal is similar in this regard.
- 8.16. By virtue of the design and scale of the proposed dwelling and separation distances, it is considered that the proposed scheme would not result in any significant adverse overbearing/overshadowing impacts or result in any significant loss of privacy to the occupiers of any neighbouring properties and would therefore overcome the first matter identified by the Inspector in the appeal decision.
- 8.17. Future occupiers of the development would not be subject to any significant loss of privacy from overlooking from any neighbouring properties or any other adverse

noise impacts identified within the previous appeal scheme. The proposal would therefore overcome the second matter identified by the Inspector in the appeal decision and would be in accordance with Policy DM10 of the adopted SADMP.

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

- 8.18. 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.
- 8.19. The surrounding area has a varied pattern of built development and a mix of housing types, scales and architectural styles within the vicinity. A majority of these dwellings have road frontage to either Burton Road or Hallfield Close, however, there are also houses at depth located immediately to the north of the application site and accessed off a single width drive from Burton Road.
- 8.20. On the third matter, in dismissing the previous appeal, the Inspector recognised that *'development set off Burton Road may be characteristic of the area'*, but considered that *'the pattern of this is distinctly different to that of the appeal proposal which would fail to create a positive street scene and, as such, would be out of keeping with the area'*. Concerns were raised regarding the back-land position of the plot, the car dominated frontage of the appeal scheme and limited space for planting to soften the hard landscaping. The current scheme has removed the frontage parking and provides adequate space for landscaping to soften the development. No details of landscaping have been submitted therefore the imposition of a planning condition to require the submission of landscaping details for prior approval would be reasonable and necessary in this case to enhance the overall appearance of the scheme.
- 8.21. The application site is currently a vacant plot within the settlement boundary of Twycross and is likely to deteriorate further in condition and appearance if not put to a viable use. Reasonable development of the site would enhance its appearance and future maintenance. The current proposal has addressed the principal concerns of impact on neighbours and future occupiers residential amenity identified within the appeal scheme by the Inspector and, on balance, it is considered that the positive visual aspects of this revised scheme would outweigh any limited adverse impacts on the character/pattern of development of the surrounding area.
- 8.22. The design of the proposed dwelling would complement the varied character of surrounding development and its appearance could be controlled by a suitable planning condition to require the submission of external materials for prior approval.
- 8.23. As such it is considered that the proposal would not be so out of keeping with the character of the surrounding area that, on its own, would warrant refusal of the application, would be acceptable in respect of Policy DM10 of the adopted SADMP and would satisfactorily address the third matter identified by the Inspector in the appeal decision.

#### Impact upon highway safety

- 8.24. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision.
- 8.25. Objections have been received on the grounds that the proposal would exacerbate existing parking and manoeuvring issues.

- 8.26. In considering the previous appeal scheme, the Inspector did not identify any significant issues in respect of development of the site for one dwelling in terms of highway safety.
- 8.27. The site has adequate access from Burton Road and the additional use of the access to serve one new dwelling would not result in any significant increase in turning traffic compared to the existing situation or result in any significant adverse impacts on highway safety.
- 8.28. The proposed layout would provide two parking spaces to serve the proposed three bedroom dwelling in line with highway design standards and could be secured by the imposition of a planning condition to require their provision prior to first occupation of the dwelling. The proposal would not have any impact on the existing six parking spaces provided for the neighbouring four dwellings that were approved on appeal (reference APP/K2420/W/16/3143843).
- 8.29. Leicestershire County Council (Highways) has assessed the scheme and raised no objections.
- 8.30. The proposal would not result in any adverse impacts on highway safety and provides adequate off-street parking to serve the development and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Infrastructure contributions

- 8.31. 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.
- 8.32. However, Paragraph: 031 Reference ID: 23b-031-20160519 of the Planning Practice Guidance, which is a material consideration, notes that tariff style planning obligations should not be sought for developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000 square metres. Therefore, in light of the guidance in the NPPG, infrastructure contributions towards public play and open space provision are not being sought.

#### Other Issues

- 8.33. Land ownership/rights of access and future arrangements for access maintenance are not material planning considerations.
- 8.34. Following formal adoption of the SADMP, the Supplementary Planning Guidance on New Residential Development no longer forms part of the Local Development Plan and can no longer be given any weight in decision making.

### **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.

## 10. Conclusion

10.1. The site is located within the settlement boundary of Twycross where the adopted Core Strategy and SADMP seek to provide a limited number of new dwellings to support local services and facilities. By virtue of the proposed layout, scale and design of the scheme it would not result in any significant adverse impacts on the amenities of the occupiers of any neighbouring properties or future occupiers of the site and addresses the residential amenity issues identified by the Inspector in the previously dismissed appeal.

10.2. Notwithstanding the back-land nature of the development, there is development at depth off Burton Road located immediately to the north of the site. The proposed scheme would result in a viable use of this vacant site and development would secure its future maintenance and enhance its appearance. The visual benefits of the scheme are considered to outweigh any limited harm identified to the character of the surrounding area. The proposal would not result in any significant adverse impacts on highway safety.

10.3. The proposed scheme would be in accordance with Policy 12 of the adopted Core Strategy and Policies DM1, DM10, DM17 and DM18 of the adopted SADMP and is therefore recommended for approval subject to conditions.

## 11. Recommendation

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

- Planning conditions outlined at the end of this report.

## 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 51 of 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:- Site Location Plan Drawing No. BRS.5457\_01A received by the local planning authority on 15 November 2016; Proposed Dwelling Floor Plans and Elevations Drawing No. BRS.5457\_03C and Proposed Garage Floor Plans and Elevations Drawing No. BRS.5457\_04 received by the local planning authority on 20 October 2016 and Proposed Site Layout Plan Drawing No. BRS.5457\_02C received by the local planning authority on 11 January 2017.

**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).

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 and to protect the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwelling and garage hereby permitted 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).

5. 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) Hard surfacing materials
- b) Existing trees to be retained and details of their protection
- c) Planting plans
- d) Written specifications
- e) Schedules of plants, noting species, plant sizes and numbers/densities where appropriate
- f) Implementation programme.

**Reason:** To enhance the appearance of the development and to ensure that the works are carried out in a reasonable time period to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The hard landscaping scheme shall be completed prior to the first occupation of the dwelling hereby permitted. The soft landscaping scheme shall be implemented during the next available planting season following first occupation of the dwelling hereby permitted and 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.

**Reason:** To ensure that the works are carried out in a reasonable time period and thereafter maintained to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Prior to the first occupation of the dwelling hereby permitted, the parking and turning facilities shall be provided and hard-surfaced in accordance with the

details approved under condition 5 of this planning permission and once so provided shall be permanently maintained for such use at all times thereafter.

**Reason:** To ensure that satisfactory off-street parking and turning is provided to serve the dwelling hereby permitted in the interests of highway safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.2. 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. Application forms to discharge conditions and further information can be found on the planning portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk)
3. This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc. Act 1996.
4. 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 the necessity of discharging some surface water off-site, flow attenuation methods should be employed, either alone or, if practicable, in combination with infiltration systems and/or rainwater harvesting systems.
5. 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).
6. The applicant is reminded that waste (refuse and recycling) collection is from the public highway and therefore the future occupiers of the development will be responsible for presenting the relevant containers in a suitable position at the public highway boundary on collection days.