

**Planning Committee 17 September 2019  
Report of the Planning Manager**

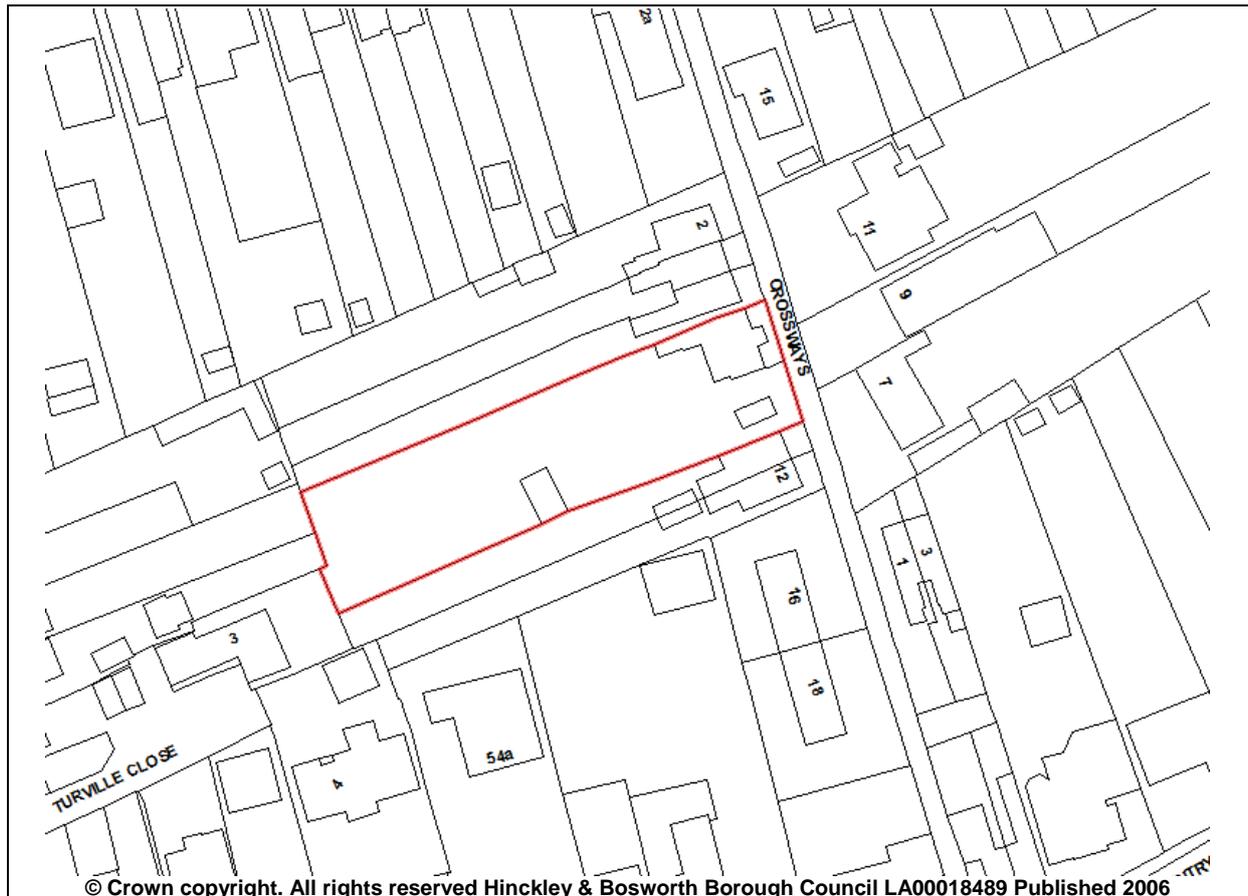
**Planning Ref:** 19/00619/OUT  
**Applicant:** Mrs J Wilkinson  
**Ward:** Burbage Sketchley & Stretton



Hinckley & Bosworth  
Borough Council

**Site:** 8 Crossways, Burbage

**Proposal:** Erection of one dwelling and garage (outline - all matters reserved)



**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 outline planning permission, with all matters reserved, for the erection of one dwelling and associated garage on land to the rear of 8 Crossways, Burbage.

**2.2.** The indicative plan submitted shows the existing garden serving no.8 being subdivided, with a new dwelling and garage to the rear. An existing garage to the side of the property would be demolished to make way for the access to the new

dwelling, which would run along the side boundary with no.10. Tandem car parking spaces for no.8 are shown provided to the side/rear of the existing property.

- 2.3. The originally submitted application proposed two dwellings on the site. However, following officers concerns about the likely cramped nature of this form of development, the restricted car parking and turning facilities and the likely detrimental impacts on residential amenity of traffic and vehicle manoeuvring close to no.10, an amended proposal showing a single dwelling only, was submitted.

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

- 3.1. The application site currently comprises the rear garden of no. 8 Crossways. No.8 is a detached two-storey house with a detached garage and hardstanding to the side/front. The existing garden is extremely well established with trees, mature shrubbery and hedging. It also contains a kitchen garden and nursery-type greenhouse. The surrounding area comprises a mix of styles and types of properties. The site is located within the settlement boundary of Burbage.

### **4. Relevant Planning History**

None

### **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. Six objections from 5 separate addresses and one from the Parish Council, were received on the original scheme for two dwellings. Three representations were received in respect of the amended scheme for a single dwelling (including one from the Parish Council), all of which reiterated their objections. The following concerns were raised:-

- 1) The development would result in the loss of 60% of the existing vegetation on the site
- 2) Crossways is unadopted and in poor condition. The additional traffic and associated services e.g. delivery vehicles will have a further detrimental effect on its condition, including underground pipes, and the general safety of users
- 3) There is already poor visibility exiting Crossways from Coventry Road and from Sketchley Road
- 4) Access during construction will be a problem
- 5) Bin lorries already cannot get down Crossways
- 6) Noise disturbance from the development will be contrary to the Human Rights Act
- 7) It would be out of keeping with the existing private, peaceful rear gardens which give the area its character and appeal
- 8) It will be overbearing on neighbouring residential properties
- 9) Loss of property value
- 10) Impact of construction traffic
- 11) Crossways is too narrow for 2 cars to pass, resulting in dangerous reversing and other manoeuvres
- 12) Loss of wildlife
- 13) Removal of vegetation could cause ground heave and structural damage to neighbouring property
- 14) Poor visibility into and out of the site
- 15) Access very close to wall of no.10 and vehicle movements would cause noise and disturbance
- 16) Two storey development would cause overlooking and overshadowing of gardens

- 17) Loss of garden land will exacerbate poor drainage and increase risk of flooding

## **6. Consultation**

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

- 1) Access road is unsuitable for further development
- 2) It is undesirable backland development
- 3) It would be incongruous with the established pattern of development

6.2. Lead Local Flood Authority refers the Council to standing advice.

6.3. No objection subject to conditions from:-

LCC Highways  
HBBC Waste

6.4. No objection from HBBC Environmental Health

## **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 DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- 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)

## **8. Appraisal**

8.1. Key Issues

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

### Assessment against strategic planning policies

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms 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.

8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should

be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).

- 8.4. The development plan in this instance consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 8.5. The emerging Burbage Neighbourhood Plan (BNP) is still in development and not yet made. Therefore, only very limited weight can be afforded to this emerging document at this time.
- 8.6. 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. 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

- 8.7. 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.
- 8.8. 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.
- 8.9. Notwithstanding the submitted indicative site layout, this is an outline planning application seeking approval for the principle of development only, with all matters reserved. Therefore, matters of access, layout, scale, appearance and landscaping are reserved for subsequent separate approval.
- 8.10. 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.
- 8.11. 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.
- 8.12. 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.
- 8.13. Although these cases do not relate directly to developments on Crossways, they are in close physical proximity to the application site and therefore form part of the wider character of the area. Whilst the application proposal would be the first development in depth on Crossways itself, officers are of the view that it would not be out of character with the wider area and, as such, it would be difficult to justify a

refusal on these grounds alone, whilst also having regard to the two appeal inspectors in their consideration of similar proposals nearby, who also did not consider this to be the case.

- 8.14. In terms of the site itself, the proposed subdivision would provide satisfactory space for a new dwelling of appropriate size, with more than adequate amenity areas for both the existing and proposed dwelling.
- 8.15. Notwithstanding that scale is a reserved matter at this stage, it is considered that two-storey development is unacceptable in this backland location, given that it would comprise a dwelling without a street frontage. A low key, essentially single storey, building would be more appropriate and also help to minimise the impact of the development on the verdant and open nature of the adjoining long rear gardens and retain its ambience. The applicant's agent has suggested a maximum ridge height of 7 metres and officers consider this would be acceptable. A condition of approval could secure this height restriction.
- 8.16. Subject to satisfactory scale, design, appearance and landscaping which would be assessed at the reserved matters stage, the development of the site for a new dwelling would complement the character of the surrounding area and the proposal would therefore be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.17. 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.
- 8.18. The indicative layout shows a dwelling to be sited towards the rear of the existing garden, with associated garage and parking to the front and a private garden to the rear. The whole application site occupies over half of the area of the existing garden. To the south, beyond the end sections of two neighbouring rear gardens, is no.54a Coventry Road, the backland development described above. The distance between the two would be approximately 12 metres. To the west, the rear boundary adjoins the rear gardens of dwellings fronting Cotes Road and that of another backland dwelling, off Turville Close. The separation distances here would be approximately 50 metres and 20 metres respectively. To the north are the end sections of other neighbouring rear gardens of properties on Crossways. The distance between the new dwelling and the rear windows of no. 8, and the neighbours at nos.6 and 10 would be approximately 30 metres. Due to these separation distances, it is considered that 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 of the surrounding properties.
- 8.19. However, any side windows above ground level would need to be restricted on the elevations facing across the neighbouring gardens, to ensure no unacceptable loss of privacy from overlooking. This would be assessed at the reserved matters stage. New boundary fencing of appropriate height would protect the privacy of the rear garden of no.8.
- 8.20. The internal access road to the dwelling would run along the boundary with no 10, which is currently substantially screened. The indicative drawing shows the existing planting to be replaced with a new planted screen along this boundary. On this basis and given the minor development of only one dwelling, it is considered that the new access road would not result in any significant adverse impacts in respect of noise or disturbance to this property, or to no.8 itself, from vehicles accessing the development. Details of the exact positioning of the access and any landscaping screening to minimise any impacts on no.10 would be subject to approval at reserved matters stage.

- 8.21. Sufficient private and useable amenity space would be provided serving the existing and future occupiers of the properties.
- 8.22. By virtue of the size of the plot and its relationship to neighbouring dwellings, subject to the consideration of additional details at the reserved matters stage (including the scale of the dwelling and the position of any windows), the erection of a single dwelling would achieve satisfactory separation distances to neighbouring properties to avoid any significant adverse overbearing impacts. Together with satisfactory boundary treatments, the privacy and amenity of neighbouring properties and future occupiers of the site would be protected from any significant loss of privacy from overlooking. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

#### Impact upon highway safety

- 8.23. 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.
- 8.24. Leicestershire County Council Highway Authority has commented on the proposal and has no objections subject to conditions.
- 8.25. Given the nature of Crossways, which is a predominantly hard bound single track road, the Highway Authority considers vehicles will be travelling at low speeds along the route. Furthermore, there are nearby routes which are surfaced to a higher adoptable standard in the form of Salem Road and Pyeharps Road should drivers need to travel between Coventry Road and Sketchley Road, which are likely to be more appealing routes to drivers as a result. The Highway Authority therefore considers the road is unlikely to be used as a through route by a high volume of traffic and predominantly used by those accessing properties on Crossways.
- 8.26. Visibility is restricted in the vicinity of the access on both sides due to the vegetation within land under the Applicants control. The Highway Authority advises that this will need to be removed or lowered to a maximum of 0.6 metres in height both sides of the site access in order to improve the visibility at the access. Without removal of the vegetation, the Highway Authority considers the principle of a safe and suitable access cannot be achieved. The Highway Authority therefore advise a condition at this stage which requires the Applicant to submit a plan detailing the vegetation within the visibility splays is removed or lowered to below 0.6 metres
- 8.27. The access width should be a minimum 2.75 metres (including an additional 0.5 metre strip with an additional 0.5 metre strip on either side bound by a wall/ hedge/ fence) to accord with Part 3, Figure DG20 of the Leicestershire Highway Design Guide ([LHDG). The submitted Design & Access Statement advises that the access will be 3.6 metres wide. Although access is to be approved under reserved matters, it is considered that, on the basis of the indicative layout, a satisfactory width of access is achievable.
- 8.28. Given the above and subject to appropriate conditions, it is considered that the proposal would be capable of providing satisfactory access and parking. The proposal would therefore be in accordance with Policy DM17 and DM18 of the SADMP.

#### Other issues

- 8.29. The Design & Access statement advises that the access would be a minimum of 3.6 metres wide, which complies with Building Regulation requirements for access by the Fire Service.

## **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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this 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. The site is within a reasonable distance of a full range of services and facilities in the centre of Hinckley and Burbage and accessible by sustainable transport means. Subject to the approval of layout, scale, design, appearance and landscaping at the reserved matters stage, the site would be capable of being developed for one new dwelling without any significant adverse impacts on the character of the area, highway safety or the privacy or amenity of any neighbouring properties.
- 10.2. The proposed scheme would be in accordance with Policy 4 of the adopted Core Strategy and Policies DM1, DM6, DM10, DM17 and DM18 of the adopted SADMP and the overarching principles of the NPPF (2019) and is therefore recommended for outline approval, subject to conditions.

## **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. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

**Reason:** To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
  - a) The access arrangements within the site for vehicles, cycles and pedestrians;
  - b) The appearance of the development including the aspects of a building or place that determine the visual impression it makes including materials;
  - c) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures and boundary treatments;
  - d) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development;
  - e) The scale of the building proposed in relation to its surroundings.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A - C inclusive and E inclusive shall not be carried out unless planning permission for such development has first been granted by the local planning authority.

**Reason:** In the interests of visual amenity and to protect the privacy and amenity of the occupiers of neighbouring properties to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. The dwelling hereby permitted shall not exceed one storey in height.

**Reason:** To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted 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 29.07.2019. 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).