

Planning Committee 11 October 2016
Report of the Chief Planning and Development Officer



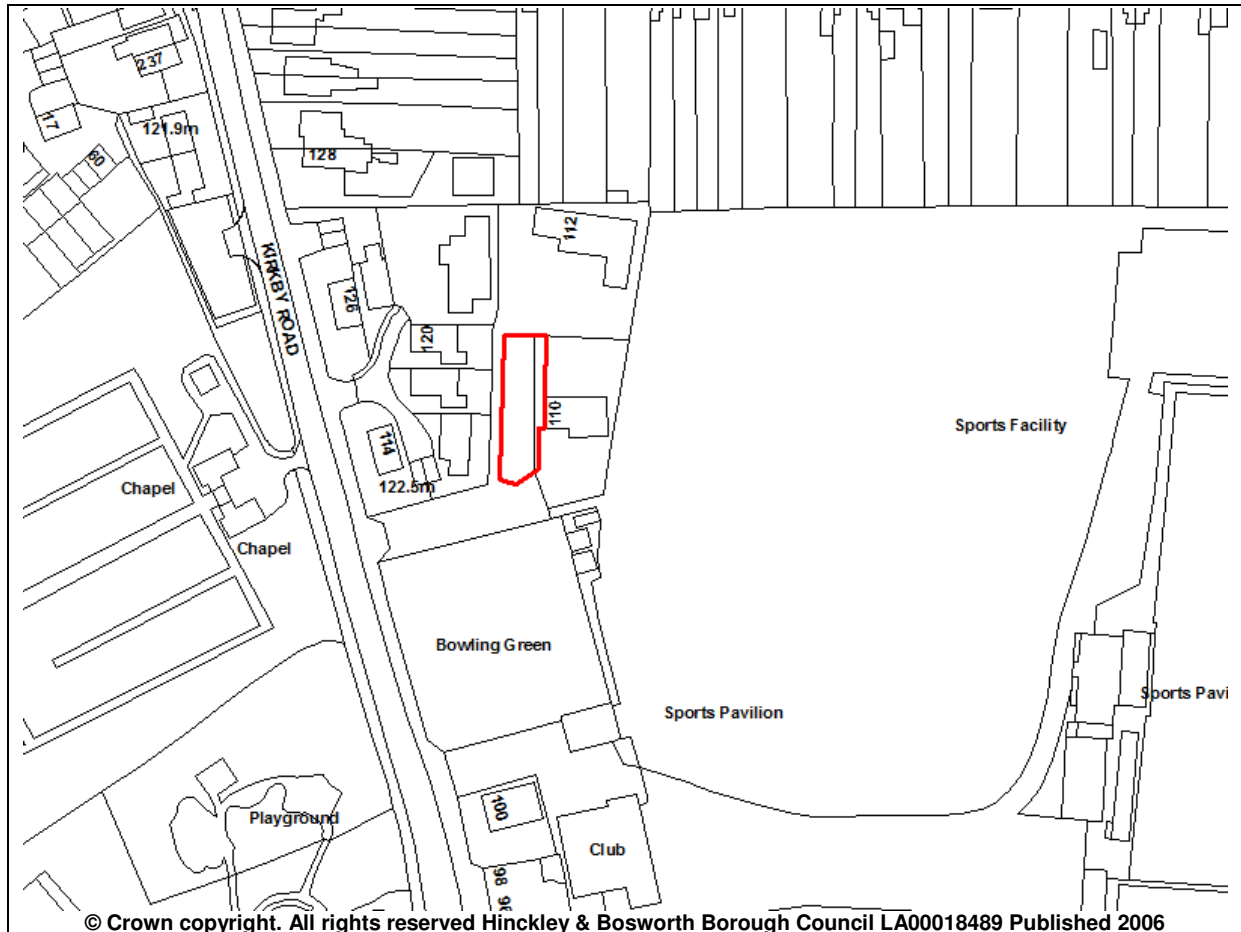
Hinckley & Bosworth
Borough Council

A Borough to be proud of

Planning Ref: 16/00693/FUL
Applicant: Mrs Gina Harvey
Ward: Barwell

Site: 110 Kirkby Road Barwell

Proposal: Erection of single storey dwelling (resubmitted scheme)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Chief Planning and Development Officer 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 a single storey detached dwelling on garden land adjacent to an existing dwelling, 110 Kirkby Road, Barwell. It is a re-submitted scheme following refusal of planning permission for a two storey dwelling within the site (reference 15/01336/FUL).

- 2.2. The proposed gable fronted bungalow would measure 6.4 metres in width x 14 metres in depth with an eaves height of 2.1 metres and a main ridge height of 5.4 metres. Proposed external materials include a mix of facing bricks and render, concrete interlocking roof tiles and uPVC window frames. An amenity area would be provided to the rear of the dwelling. Two parking spaces to serve the new dwelling would be provided on hardstanding to the front of the site.
- 2.3. An arboricultural survey has been submitted to support the application.

3. Description of the Site and Surrounding Area

- 3.1. The application site, excluding the shared access, measures approximately 300 square metres and is located within the settlement boundary of Barwell within a predominantly residential area. It comprises part of the garden to 110 Kirkby Road (a two storey detached dwelling) and an adjacent plot of land enclosed by 1.8 metre high timber fencing. The adjacent plot is currently used for allotment purposes ancillary to the use of 110 Kirkby Road. To the west a vehicular accessway separates the application site from the rear gardens of three detached bungalows (Nos. 116, 118 and 120 Kirkby Road), to the north there is a dormer bungalow (No. 122) and a further detached bungalow (No. 112), to the south there is the existing vehicular access to 110 Kirkby Road and a bowling club/green beyond. There is an established Yew tree located towards the front of the application site which is protected by a Tree Preservation Order (ref. 92/00001/TPORD).

4. Relevant Planning History

15/01336/FUL	Erection of one dwelling	Refused	04.03.2016
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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. As a result of public consultation, responses have been received from five separate addresses objecting to the scheme on the following grounds:-
- 1) Overbearing impact on neighbouring properties due to height and proximity
 - 2) Loss of sunlight to neighbouring properties
 - 3) Loss of privacy to neighbouring properties due to high windows
 - 4) The ridge is higher than surrounding bungalows
 - 5) Inadequate parking provision
 - 6) Adverse impact on protected Yew tree
 - 7) Additional noise and nuisance particularly during construction
 - 8) Surface water ponding
 - 9) Potential removal of fence and encroachment on adjacent driveway
 - 10) Loss of property value.

6. Consultation

- 6.1. No objections, some subject to standard advice, have been received from:-
Leicestershire County Council (Highways)
Arboricultural Officer
Environmental Health (Drainage)
Environmental Health (Pollution)
- 6.2. Barwell Parish Council support the application and request contributions towards nearby play and open space facilities.

7. Policy

- 7.1. Earl Shilton and Barwell Area Action Plan (ESBAAP) DPD (2014)
- Relevant policies have been replaced by SADMP policies listed below.
- 7.2. Core Strategy (2009)
- Policy 3: Development in Barwell
 - Policy 19: Green Space and Play Provision
 - Policy 24: Sustainable Design and Technology
- 7.3. Site Allocations and Development Management Policies (SADMP) 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 DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.4. 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
 - Design and impact upon the character of the area
 - Impact on protected Yew tree
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Infrastructure contributions
 - Other issues

Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 12 and 13 of the NPPF state that the development plan is the starting point for decision making and that the NPPF is a material consideration in determining applications.
- 8.3. The development plan in this instance consists of the adopted Core Strategy (2009), the adopted Earl Shilton and Barwell Area Action Plan (ESBAAP) Development Plan Document (2014) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. Policy DM1 of the adopted SADMP provides a presumption in favour of sustainable development. The adopted Core Strategy identifies Barwell and Earl Shilton as urban areas supporting Hinckley as the sub-regional centre. The application site is located within the settlement boundary of Barwell as defined in the ESBAAP and is located within a reasonable distance of a range of local services and facilities.

Policy 3 of the adopted Core Strategy supports development within the settlement boundary of Barwell to deliver a minimum of 45 new dwellings along with 2500 new dwellings within a mixed use Sustainable Urban Extension. The minimum housing allocation for Barwell has been met and exceeded through the grant of planning permissions on other sites. However, the proposal for one additional new dwelling within the urban settlement boundary would not have any adverse impact on the spatial vision for the settlement or the Borough. The proposal would therefore comply with the general strategic principles and Policy 3 of the adopted Core Strategy and would be acceptable in this case subject to all other material planning matters being adequately addressed.

Design and impact upon the character of the area

- 8.5. 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.
- 8.6. The surrounding area is characterised by a detached two storey dwelling set in a spacious plot and detached bungalows, including a dormer bungalow, set within a variety of plot sizes and shapes with no proper road frontage and served by shared private driveways.
- 8.7. The proposed single storey dwelling would be sited immediately adjacent to the side gable of 110 Kirkby Road and extend 14 metres along the side boundary with the adjacent vehicular access and would not be out of character with the density of the bungalow development to the west of the site. This surrounding development contains gable fronted properties and a dormer bungalow with a higher ridge than the other existing bungalows.
- 8.8. Notwithstanding that the scheme would result in the development of a restricted plot, the layout, scale and design of the scheme would be well integrated and complement the density and character of the surrounding area and would not result in any significant harm to the built environment. The layout would also provide a private amenity area of 43 square metres to the rear of the new dwelling to serve the future occupiers. The scheme would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact on protected Yew tree

- 8.9. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation value with on site features being retained, buffered and managed favourably to maintain their ecological value.
- 8.10. The existing Yew tree is located towards the front of the application site. It provides a significant contribution towards the visual amenity of the surrounding area and is therefore protected by a Tree Preservation Order (ref. 92/00001/TPORD).
- 8.11. The Council's Arboricultural Officer has carried out a site visit and assessed the potential impact of the proposed scheme on the protected Yew tree. As a result of the feedback from the Arboricultural Officer, the position of the proposed dwelling has been revised and is now 8.5 metres from the trunk. This revised position is considered appropriate and compatible with the Yew tree which is to be retained within the proposed layout. The radial crown spread is 6 metres from the trunk and results in sufficient window and building clearance to provide satisfactory residential amenity for the future occupiers.
- 8.12. The new parking area and drive surfaces; excavations for the laying of underground services beneath the tree canopy and the building construction process all have the

potential to cause root damage and soil compaction that would be detrimental to the health of the tree. It would therefore be reasonable to impose a condition requiring the submission of a tree compatible construction method and services routing details for prior approval to further control this aspect of the scheme. The removal of a number of lower branches of the tree (crown lifting) would also be necessary but would not have any significant adverse impacts on the visual amenity that the tree provides.

- 8.13. By virtue of the separation of the proposed single storey dwelling to the protected Yew tree the scheme would not be likely to result in any significant harm to its health and long term viability. Impacts from the provision of hard standing and any below ground services proposed within the root protection area could be controlled by a planning condition to require the submission of full details for prior approval. The proposal would therefore be in accordance with Policy DM6 of the adopted SADMP which seek to protect the natural environment and biodiversity.

Impact upon neighbouring residential amenity

- 8.14. 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. The NPPF in paragraph 17 seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.15. Objections have been received on the grounds that the scheme would have adverse impacts on the amenities of neighbouring occupiers through overbearing and overshadowing impacts on neighbouring properties and gardens, loss of outlook, views and natural light and loss of privacy from overlooking from high level windows.
- 8.16. Numbers 114, 116, 118, 120 and 122 Kirkby Road are detached bungalows located to the west of the application site. The main rear elevation of No 118 has habitable room windows that face directly towards the proposal. The proposed dwelling would have a single storey ridge height of approximately 5.4 metres and extend across the rear of No. 118 with a separation distance of 11 metres. In addition, the roof of the proposed dwelling would slope away from the site boundary such that the 5.4 metre high ridge would be approximately 14 metres from the rear elevation and 7 metres from the rear garden boundary. By virtue of the scale and separation distance, the proposal would not result in any adverse overbearing or overshadowing impacts on the occupiers of No. 118. There are no habitable room windows to Nos. 114, 116, 120 or 122 that would look directly towards the proposed dwelling and by virtue of the separation distances the scheme would not result in any adverse overbearing or overshadowing impacts on the amenities of the occupiers of these bungalows.
- 8.17. 112 Kirkby Road is a detached bungalow located to the north of the application site and set towards the back of its plot, away from the proposed development. By virtue of the separation distance of approximately 20 metres from the nearest part of 112 (conservatory) to the rear elevation gable of the proposed single storey dwelling the scheme would not result in any adverse overbearing or overshadowing impacts on the occupiers of 112.
- 8.18. The proposed dwelling has only ground floor accommodation and no views would be available to any neighbouring gardens from the high level window detail proposed in the rear gable or side roof elevations. Therefore the scheme would not result in any loss of privacy to any neighbouring properties from overlooking. However, by virtue of the ridge height of 5.4 metres there may be potential to create an internal first floor within the structure at a later date. A condition to limit the development to ground floor accommodation only would be reasonable and

necessary in this case given the proximity of the windows to neighbouring gardens to protect the future privacy of neighbouring occupiers.

- 8.19. The host dwelling No. 110 would retain adequate private amenity space. By virtue of the single storey scale of the proposal and separation distance the scheme would not result in any significant adverse impacts on the amenity of the occupiers of No. 110.
- 8.20. Noise and disturbance during the construction phase would be temporary in nature and therefore would not have any long term impacts on the amenities of the occupiers of any neighbouring residential properties.
- 8.21. By virtue of its siting, scale and separation distances, the scheme would not result in any significant adverse impacts on the amenities of any neighbouring properties and would therefore be in accordance with Policy DM10 of the adopted SADMP in respect of residential amenity.

Impact upon highway safety

- 8.22. Policy DM17 of the adopted SADMP supports development that makes the best use of and/or enhances existing public transport services, ensures convenient and safe access for walking and cycling to services and would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate/justified level of parking provision. Paragraph 32 of the NPPF states that a safe and suitable access to sites should be achieved and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe
- 8.23. Objections have been received that the proposal would have inadequate off-street parking provision.
- 8.24. The scheme includes the provision of two spaces to serve the proposed two bedroom bungalow which would be in accordance with adopted highway authority standards. Adequate hard standing for parking for at least four vehicles would be retained to serve the host dwelling (110). The existing shared access has adequate width and visibility onto Kirkby Road to serve an additional dwelling.
- 8.25. In light of the above, the scheme would not result in any significant adverse impacts on highway safety and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Infrastructure contributions

- 8.26. Barwell Parish Council request infrastructure contributions towards play and open space facilities at Kirkby Road Recreation Ground in Barwell.
- 8.27. Following amendments to national planning guidance, infrastructure contributions should no longer be sought on schemes of this scale. Therefore notwithstanding the provisions of Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution towards public play and open space has been pursued in this case.

Other issues

- 8.28. By virtue of the constrained nature of the site and proximity to the protected Yew tree, a condition to remove permitted development rights would be reasonable and necessary in this case to safeguard the character and appearance of the area and in the interests of residential and visual amenity.
- 8.29. Surface water drainage from the development would be subject to building regulations approval and by virtue of the scale of development the scheme would

not result in any significant flooding to the wider area. No objections have been received from Environmental Health (Drainage).

- 8.30. The potential removal (temporary or otherwise) of existing boundary fencing and encroachment onto the adjacent driveway during the construction phase is a civil matter between respective land owners and not a material planning consideration. The provisions of the Party Wall etc. Act could be referred to by way of an informative note to the applicant should the application be approved.
- 8.31. Loss of value to neighbouring property is not a material planning consideration.

9. Equality Implications

- 9.1. Section 149 of the Equalities 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 proposal complies with the general strategic principles of the development plan and would not result in any significant adverse impacts on the built or natural environment.

- 10.2. By virtue of the proposed layout, scale, design, and subject to the use of appropriate external materials to ensure a satisfactory appearance, the scheme would complement the density and character of the surrounding area and would not result in any significant adverse impacts on the amenities of any neighbouring properties or highway safety. Conditions can be imposed to ensure continued protection of the Yew tree to preserve the contribution that it provides to visual amenity. The scheme would therefore be in accordance with Policy 3 of the adopted Core Strategy, Policies DM1, DM6, 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.

- 11.2. That the Chief Planning and Development Officer 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 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. 7174P-04 received by the local planning authority on 28 July 2016 and Proposed Site/Floor Plan and Elevations Drawing No. 7174P-05 Revision P2 received by the local planning authority on 11 August 2016.

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 (2016).

3. 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 single storey dwelling 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).

4. The proposed ground levels of the site and proposed finished ground floor level of the single storey dwelling hereby permitted shall be the same as those of the adjacent dwelling, 110 Kirkby Road, Barwell as submitted on the approved plans.

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. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone in accordance with BS 5837:2012 (Tree in relation to design, demolition and construction). Within the construction exclusion zone/protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any machinery, equipment or materials. If any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the existing Yew tree to be retained is adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

6. No works or development shall take place within the site until a site specific no-dig access drive construction method statement has been submitted to and approved in writing by the local planning authority that demonstrates that no-dig surfacing is fit for purpose. The development shall then be implemented in accordance with the approved scheme.

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

7. No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 (Tree Work - Recommendations) have been submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.

Reason: In the interests of the health, safety and visual amenity and biodiversity value of the protected trees to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, development within Schedule 2, Part 1, Classes A, B, C, E and F shall not be carried out unless planning permission for such development has first been granted by the local planning authority.

Reason: To safeguard the character and appearance of the area and in the interests of residential and visual amenity to accord with Policies DM10 and DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No internal floors or accommodation shall be created above ground level within the single storey dwelling hereby permitted at any time.

Reason: To safeguard the privacy and amenity of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Before first occupation of the single storey dwelling hereby permitted, the two vehicle parking spaces shall be constructed and surfaced in accordance with the details approved under condition 6 of this planning permission and once so provided shall be maintained for parking at all times thereafter.

Reason: To ensure that satisfactory off-street parking is provided to serve the dwelling hereby permitted in the interests of highway safety to accord with Policy DM18 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 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.
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
4. 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.
5. 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.