

PLANNING COMMITTEE – 20 DECEMBER 2022

Reference Number: 22/00885/RM

Application expiry: 23/12/22

Application Type: S73 Approved Plans

Proposal Description: S73 application to vary condition 1 (Approved Plans) of planning approval 17/00768/RM to vary the scale and appearance details (Major Development)

At: Land to the East of Prospect House, Highstairs Lane, Stretton

For: Meadowview Homes

Third Party Reps: 1 local resident

Parish: Stretton

Ward: Pilsley and Morton

Report Author: Graeme Cooper

Date of Report: November 2022

MAIN RECOMMENDATION: Grant permission, subject to conditions

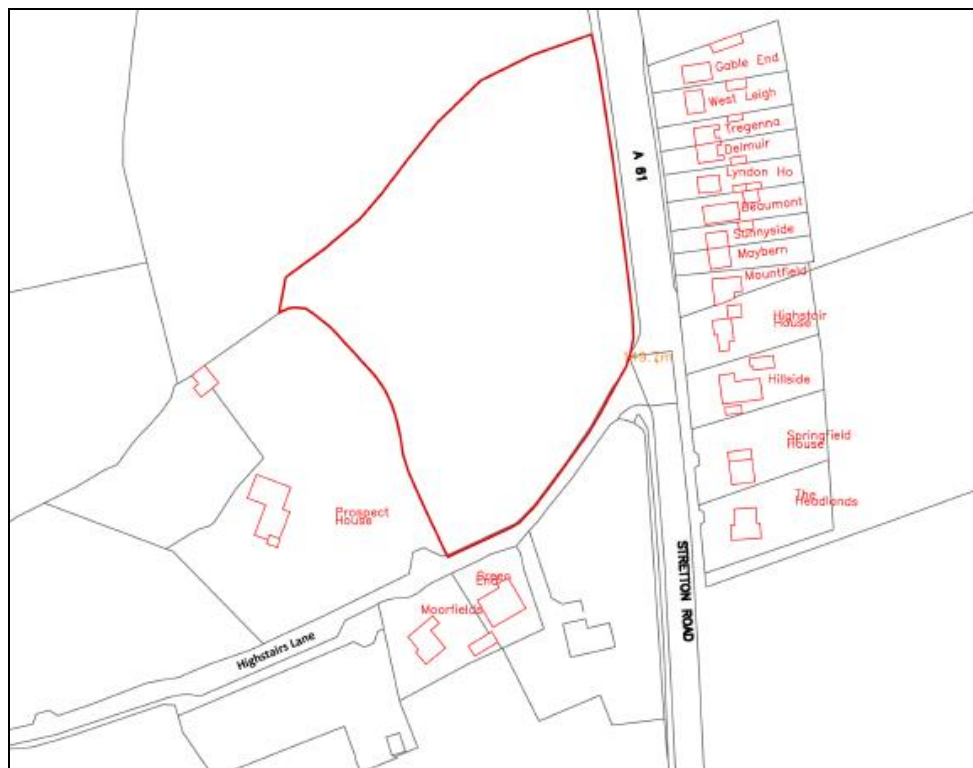


Figure 1: Location plan, with site edged in red

1.0 Reason for Report

- 1.1 Cllr Cooper requested that this and another application at this site be considered by planning committee. The reasons being the size and scale of development has increased significantly and committee should assess the changes and the likely impacts on the local area.

2.0 Proposal and Background

Site Description

- 2.1 The application site covers an area of approx 1.15 hectares in size and was formally a field to the north of Stretton. It is bound by a wall which fronts onto the A61 to the east and Highstairs Lane to the south. Access into the site is taken from Highstairs Lane.
- 2.2 To the west is Prospect House, a detached dwelling set in large grounds. The western boundary of the application the site is made up of a hedge and wire fencing, with a number of trees located on or close to the boundary protected by tree preservation order (NEDDC TPO 266).
- 2.3 The site has an extant planning permission for 28 dwellings and work has commenced on site. A hedge which once fronted Highstairs Lane has been transplanted, in line with the original permission, to the northern boundary of the site.
- 2.4 An access has been formed onto Highstairs Lane in line with the permission and, as discussed above, ground works are well under way on site.

Proposal

- 2.5 This is an application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 1 (Approved Plans) of planning approval 18/00812/RM to vary the scale and appearance details.
- 2.6 The reason for the application is due to the site having been purchased by a different developer who wishes to use their own house types.
- 2.7 A site plan and house type drawings have been submitted for consideration.

Amendments

- 2.8 None.

3.0 Relevant Planning History (not the full site history)

- 3.1 14/00249/OL - Outline planning application (means of access submitted) for residential development and improvements to Highstairs Lane (Major Development) (Departure from Development Plan)(Additional Plans/Information) (S106 agreed)
- 3.2 15/00910/FL - Application to vary condition 3 of 14/00249/OL regarding provision of affordable housing (Conditionally Approved)
- 3.3 17/00768/RM - Approval of reserved matters (layout, scale, appearance and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/FL (Major Development) (Amended Plans) (Refused)
- 3.4 18/00812/RM - Approval of reserved matters (layout and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/OL (Major Development)(Amended Plans) (Conditionally Approved)
- 3.5 19/00501/DISCON - Application to discharge conditions 3 (Affordable Housing), 6 (Boundary Treatments), 7 (Samples), 8 (Ground Levels), 9 (Landscaping Scheme) 13 (Schedule of Landscape Maintenance), 14 (Surface Water drainage), 15 (Foul drainage works), 16 (Temporary Access), 17 (Site accommodation), 18 (Pedestrian Crossing) 19 (Highway improvement works) 20 (New Junction), 27 (Employment and Training), 28 (Public Art), 29 (Sound Insulation and Noise Reduction) and 31 (Intrusive site investigation works) pursuant of 19/00943/FL (Amended Title) (Conditions Discharged)
- 3.6 19/00601/AMEND - Non-material amendment to planning application 18/00812/RM to reduce Chestnut home type roof pitch by 2.5 degrees, omit personnel doors from detached garages, clarify that Plot 14 is brick not stone, clarify first floor windows of Maples plot 2, 3 and 13 and define extents of ornamental string courses (Approved)
- 3.7 19/00943/FL – Application to vary condition 20 (visibility splays) of planning approval 15/00910/FL to formalise within highways impact statement. (Major Development) (Conditionally Approved)
- 3.8 20/01302/DISCON – Application to discharge condition 17 (Site Accommodation) pursuant to planning application 19/00943/FL (Condition Discharged)
- 3.9 21/00621/FL – Application to vary S106 agreement and create Supplemental Deed to allow discounted affordable housing units (Approved)

3.10 22/00884/RM - S73 application to vary condition 1 (Approved Plans) of planning approval 18/00812/RM to vary the layout and landscaping details (Major Development) (Pending Consideration)

4.0 Consultation Responses

4.1 **Parish Council** raised no comments.

4.2 **Ward Member** called the application into committee for the reasons raised in section 1.1 above.

4.3 **Highways Authority (HA)** As long as this proposal would not result in a change in parking and access arrangements to the site, the Highway Authority would not object to this proposal. I trust LPA will satisfy that the level of parking and access arrangement will stay the same.

4.4 **Environmental Health (EHO)** no further comments.

4.5 **The Coal Authority** raised no objections to this planning application and Condition 31 need not be duplicated on any reissued consent.

4.6 **Derbyshire Wildlife Trust (DWT)** raised no comments.

4.7 **Yorkshire Water Authority (YWA)** raised no comments.

4.8 **Council's Drainage Engineer** raised no comments.

4.9 **Council Housing Officer** raised no comments.

4.10 **Employment and Skills Officer** raised no comments.

4.11 **Council Tree Officer** provided comments on the impact on the protected trees which are assessed in application 22/00884/RM.

4.12 **The Environment Agency (EA)** did not request the planning condition the applicant is seeking to vary. We advise you seek the views of the consultee who requested the condition on the information submitted.

4.13 **Derbyshire Community Health Services NHS Trust** raised no comments.

4.14 **Council Parks Team** raised no comments.

4.15 **Derbyshire Police (Designing Out Crime Officer)** notes that application 22/00884 is to vary the later approved matters of landscaping and layout, and that application 22/00885 is to vary the matters of appearance and

scale approved at an earlier time on appeal. Don't have any comments to make in respect of any of these matters, as all of the detail submitted is acceptable from a community safety perspective.

On matters of administration. The site plan legend within 22/00884 has housing numbers which add to 32, not the 28 set out. There looks to be some anomalies with the mix and numbers to resolve. The house type plans listed within 22/00885 has the Bamburgh misspelt as Barnburgh, one Balmoral plan shown as a Barnard and one Richmond plan listed as a Warwick. *[Officer note: amended plans to clarify the layout and proposed house types have been submitted for consideration]*

4.16 **Councils Refuse Team** raised no comments.

4.17 **Lead Local Flood Authority** raised no comments.

5.0 Representations

5.1 The application was publicised by way of neighbour letters and the display of a site notices adjacent to the site. A site notice was placed adjacent to the site on a lamppost on Stretton Road, which expired on 9 December. An advert was also placed in the local press on 20 October and expired on 10 November.

5.2 1 local resident has made representations raising the following comments objecting to the proposed development:

- Overall the size, scale, layout and density of the development has increased significantly *[Officer note: This is considered in the assessment below]*
- The coverage of buildings on site has materially increased *[Officer note: This is considered in the assessment below]*
- The size of the proposed dwellings has increased *[Officer note: This is considered in the assessment below]*
- Increase in development will have negative impact on the roots of protected trees *[Officer note: The Councils Tree Officer has reviewed the proposals on the trees and this is considered in the assessment below]*
- The agreed RPA previously approved is incorrect *[Officer note: the RPA was agreed on the advice of a qualified arborist]*
- Windows on proposed dwellings will negatively impact existing residents *[Officer note: The impact on neighbours is considered below]*
- Some houses are now 3 storey in scale – in previous appeals the Inspector stated that all dwellings should be 2 storey – the increase will negatively impact neighbours *[Officer note: There are no 3 storey*

- dwellings proposed, it is however noted that the Durham house type has rooms in the roof space, this accounts for 6 dwellings]*
- *Frosted windows omitted from plans [Officer note: Unclear which dwelling is of concern here but it is assumed the objector is referring to plot 7 which includes two upper floor bathroom windows which face south towards Prospect House. An assessment of these windows is considered below]*
 - *Previous appeal allows 2, 3 and 4 bed dwellings, this scheme now includes 5 bed dwellings [Officer note: The proposed scheme includes the Hampton (2 units) and Warwick (1 unit) house type which are 5 bed dwellings. An assessment of this impact is considered below]*
 - *Inaccuracies and/or missing information:
 - *Two site plans submitted, one labelled superseded [officer note: Drawing STRET-001 date scanned 14 October is the latest site plan that members should consider. The same plan dated 6 September has been superseded. This is clearly labelled on the public access site and is retained for public scrutiny in the interest of transparency.]*
 - *Impossible to determine which house type relates to site plan [Officer note: The submitted site plan clearly illustrates how many of each house type and where each house type would be on site. It should be noted that the Balmoral and Richmond house types were submitted on 10 October so not with the original suite of plans.]*
 - *A number of versions of house types and properties which don't relate to the site plan [Officer note: Unclear which house types are an issue here, but it could relate to the use of (OPP) on the plan. This refers to 'handing' or flipping the proposed house type and is clear to officer's in assessing the proposal.]*
 - *Western boundary inaccurate [Officer note: The red line plan submitted is accurate and officer's have no reason to believe this is inaccurate.]**
 - *Tree survey undertaken by John Booth has expired [Officer note: It is noted that the report by John Booth has expired, however the developer could build out the previously approved scheme in line with that approval. Nevertheless Officer's have requested that the Councils Tree Officer review the proposal.]*
 - *Work has been underway on site for 6 weeks [Officer note: The developer is working to an extant permission and having visited the site is undertaking ground works and installing roadways.]*

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan 2014-2034 (LP)

- 6.1 The following policies of the LP are material to the determination of this application:

SS1 Sustainable Development
SS2 Spatial Strategy and the Distribution of Development
SS9 Development within the Countryside
SDC2 Trees, Woodlands and hedgerows
SDC3 Landscape Character
SDC4 Biodiversity and Geodiversity
SDC12 High Quality Design and Place making
ID3 Sustainable Travel

National Planning Policy Framework (NPPF)

- 6.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application.
- 6.3 Essentially, proposals should 'achieve well-designed places' (chapter 12), 'make effective use of land' (chapter 11) as well as 'conserve and enhance the natural environment' (chapter 15).

Other Material Planning Considerations

- 6.4 Successful Places Interim Planning Guidance, adopted December 2013

7.0 Planning Issues

Principle of Development

- 7.1 The principle of development on the site was established through the granting of outline planning permission 14/00249/OL and 15/00910/FL. A material start has been made on site so Officer's consider that the planning permission remains extant.

Main Issues

- 7.2 The main material considerations with this application are the proposed changes to the scale and appearance details previously approved under application 17/00768/RM. The proposed changes are considered below.

Scale Considerations

- 7.3 Planning approval 17/00768/RM approved the scale of 28 dwellings linked to the outline approval 15/00910/OL. The previously approved scheme was proposed by a different developer to the one submitting this S73 application and as such they have different house types they wish to use.

- 7.4 All the proposed house types are two storey in scale. A sample of three different house types (Bamburgh, Durham and Waterford) can be seen in Figure 2 below.
- 7.5 Concern has been raised by a local resident to the overall size and scale of the proposed development having increased significantly from that previously approved. It is contended that some properties are now 3 storeys in height and the scheme now includes 5 bed dwellings not previously approved. Comments are also put forward that the increased size of development will have a negative impact on protected trees and the agreed Root Protection Area (RPA).
- 7.6 As discussed above, concern was raised that three storey properties would be used on site. However as can be seen in Figure 2 below, the only house type with rooms in the roof space is the Durham house type which is used on 6 plots. This is a two storey property with rooms in the roof space. Officer's do not consider that this house type would differ materially from the previously approved scheme and it would complement the site and the surrounding street scene which is also predominantly two storey in appearance.

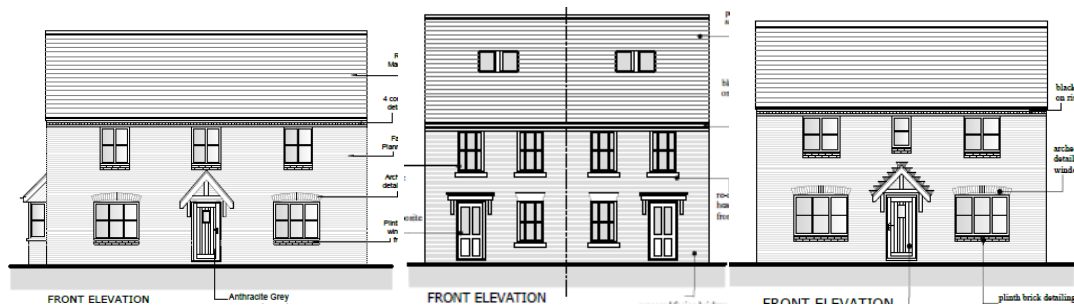


Figure 2: Example house types (L-R, Bamburgh, Durham and Waterford)

- 7.7 The applicant has undertaken a calculation of the proposed building heights compared to those previously approved. It is advised that the proposed scheme will be between 0.3-1m lower overall than the previously approved scheme. Officer's have no reason to dispute this calculation.
- 7.8 Further concern was raised at the use of 5 bedroom properties in the proposal. However, only the Hampton and Warwick house types, which account for 3 plots on site, would be 5 bedroom properties. The previous decision made no reference to restricting the number of bedrooms included in the allowed scheme and only considered the facts of the application in that the developer chose 2, 3 and 4 bedroom properties. Officer's are of the opinion that the proposed inclusion of 3 x 5 bedroom properties will have no greater impact on the overall appearance of the

proposed development on the site and the character of the immediate area.

- 7.9 The applicant has provided evidence that the proposed scheme would have approx. 7sqm of floor area over and above that previously approved under application 17/00768/RM, which represents a 0.3% increase in the overall building footprint. Officer's note that the amended scheme has fewer garages and the scheme is a mix of two storey properties similar to that previously approved, as such Officer's have no overriding concern at the limited increase in scale of the proposed development over and above that previously approved.
- 7.10 Whilst concern is raised to the proposed development having a detrimental impact on the Root Protection Area (RPA) to the west, the Council's Tree Officer and developer through the course of considering application 22/00884/RM have agreed a larger RPA, in the interest of these protected trees. The proposed development does not extend into this revised RPA and as such the Tree Officer has no objection, subject to conditions being included on any relevant permission to combat soil compaction, the removal of permitted development for works on Plots 1-7 and retention of protective fencing.
- 7.11 The County Council Highways Authority has raised no objection to the proposed scheme and as such Officer's have no reason to consider that this proposal would give rise to highway safety concerns over and above the approved scheme.
- 7.12 In view of the above, whilst Officer's accept that the proposed development will be marginally greater in scale than that previously approved, it is not considered that the difference would be harmful to the overall character and appearance of the site and the surrounding area, nor would it have a severe impact on the surrounding road network.

Appearance Considerations

- 7.13 Planning approval 17/00768/RM approved the appearance of 28 dwellings linked to the outline approval 15/00910/OL. The previously approved scheme was proposed by a different developer to the one submitting this S73 application and as such they have different house types they wish to use.
- 7.14 The previously approved scheme was a mix of feature render plots with the majority constructed from red brick. The proposed development will be a mix of two storey dwellings constructed from red brick and grey tile (Marley Ashmore). 4 brick options have been provided but no specific details as to which plots will be constructed from what material. No

reference is made to including feature materials for prominent units which will need to be addressed at a later date. As such Officer's consider that a condition requiring the submission of a clear materials schedule should be included in any decision.

- 7.15 As considered by the Inspector on the relevant appeal decisions for this site, the *“existing residential development along Stretton Road varies considerably in its form, design, appearance and use of materials.”* Officer's are of the view that the use of red brick, feature rendered units and grey tile will complement the mixed surrounding street scene. Furthermore similar materials were considered acceptable on the previously approved scheme and as such it is considered acceptable on this proposed development.
- 7.16 Concern has been raised by a local resident to the impact of windows on neighbouring residents from overlooking. Whilst no specific information has been provided as to which plot this refers to Officer's note that the majority of the proposed development would accord with the separation distances contained in the Councils Successful Places Interim Guidance.
- 7.17 However Officer's note that Plot 7 (as seen below in Figure 3) is set close to the boundary with Prospect House. Whilst Prospect House is in excess of 40m away from Plot 7 two upper floor windows would be close to the boundary of the site and have the potential for overlooking into the garden. These two windows serve bathrooms.

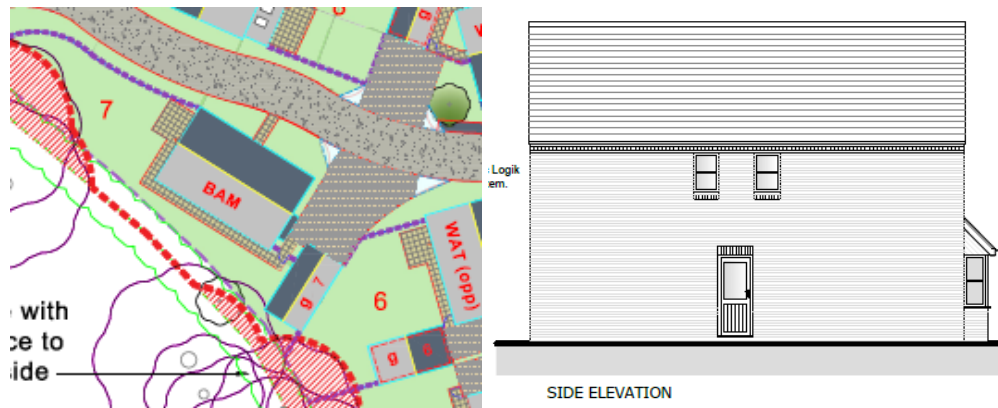


Figure 3: Details of Plot 7

- 7.18 On the previously approved scheme, a similar house type in this location included 1 upper floor bathroom window which was conditioned to be obscured in nature to avoid any loss of privacy at Prospect House. Furthermore, permitted development rights for no further first floor openings (unless they are obscured in nature), Juliet balconies or dormer windows being included in the roof was included in the decision. Officer's consider that a similar condition can be included to ensure that the proposed bathroom windows are obscured in nature and that no further

additions to Plot 7 are allowed under permitted development rights in order to protect the future privacy and amenity of residents at Prospect House.

- 7.19 Concern is also raised to potential views from upper floor, rear facing openings included in plots 4 and 5, along with the risk of overlooking from future works (such as inclusion of rear dormers, Velux windows, etc) on properties close to the western boundary. Officer's note this concern but properties other than Plot 7 are set back a good distance from the boundary of the site in accord with the Council's Successful Places Interim Planning Guidance and any potential future views would be obscured by the mature tree band along this western boundary. As such Officer's conclude that it would not be reasonable to remove permitted development for works in the roof on these plots in this instance.
- 7.20 It is however noted that as recommended in respect of application 22/00884/RM (see this Committee) Officer's concluded that permitted development rights for extensions, outbuildings, hardstanding and means of enclosure for plots 1-7 should be restricted by way of an appropriate condition. This is in order to protect the trees along the western boundary.
- 7.21 With regards to the privacy and amenity of future residents within the scheme Officer's are satisfied that the proposed development would comply with the Council's Successful Places Interim Planning Guidance and be acceptable in privacy and amenity terms, subject to condition requiring windows in Plot 7 being obscured in nature.
- 7.22 Overall Officer's are therefore satisfied that the appearance of the proposed development would be acceptable on the character and appearance of the surrounding street scene and not give rise to an unacceptable loss of privacy and amenity of existing and future residents.

Other Considerations

- 7.23 As part of the 2018 application a Unilateral Planning Obligation (UPO) was agreed in November 2019 between the previous developer and the Council. Included in this UPO was agreement to pay a contribution towards Affordable Housing. The applicant has confirmed that they are aware that this contribution will still be made to the Council.

8.0 Summary and Conclusion

- 8.1 The site already has an extant planning permission for 28 dwellings. This proposal seeks to amend the approved scale and appearance details.

- 8.2 Amendments to the previously approved scale and appearance details have been submitted to take into account the site being developed by a different housebuilder who inevitably have different house types.
- 8.3 The proposal is broadly the same to that previously approved with subtle changes to the scale and appearance of the dwellings. Furthermore some garages are removed from the scheme and some dwellings now have rooms in the roof space.
- 8.4 The scale and appearance of the dwellings now proposed, whilst differing from those previously approved, would be in keeping with the character and appearance of the site and the surrounding street scene.
- 8.5 In addition, the proposed development would not, subject to conditions, give rise to an unacceptable loss of privacy and amenity of existing and future residents.
- 8.6 There are no technical reasons to outweigh the above conclusions.
- 8.7 Overall it is considered by Officer's that the changes proposed to the layout and landscaping details would be acceptable and in conformity with the Development Plan and National Planning policy.

9.0 Recommendation

- 9.1 That planning permission is **CONDITIONALLY APPROVED**, with the final wording of the conditions delegated to the Planning Manager (Development Management):-

Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans in so far as they relate to scale and appearance:
 - Site Location Plan: 2016-458 005A
 - Site Survey as Existing: 2016 - 458 006A;
 - STRET 002 - House Type Bamburgh
 - STRET 003 – House Type Bamburgh (V4)
 - STRET 004 - House Type Barnard
 - STRET 005 – House Type Balmoral
 - STRET 006 - House Type Canterbury
 - STRET 007 - House Type Durham
 - STRET 008 – House Type Winchester
 - STRET 009 – House Type Hampton
 - STRET 010 - House Type Richmond

- STRET 011 Rev A – House Type Warwick
- STRET 012 – House Type Waterford
- STRET 013 – House Type Garages

[Reason: For clarity and the avoidance of doubt.]

- 2) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order), no first floor rear facing windows, dormers in the roof or Juliet balconies shall be inserted into the rear elevation of plot 7, save for the windows shown on the approved drawing which shall have obscure glazing installed in order to provide a level of obscurity at least equivalent to levels 3, 4, or 5 on the Pilkington Glass scale and the glazing shall be retained as such thereafter.

[Reason: To ensure that the privacy and amenity of residents at Prospect House is respected, all in accordance with policy SDC12 of the North East Derbyshire Local Plan.]

- 3) Notwithstanding the submitted details, before work commences above Damp Proof Course (DPC) precise specifications or samples of the walling and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

[Reason: In the interest of the character and appearance of the site and the surrounding street scene, all in accordance with policies SS9 and SDC12 of the North East Derbyshire Local Plan.]