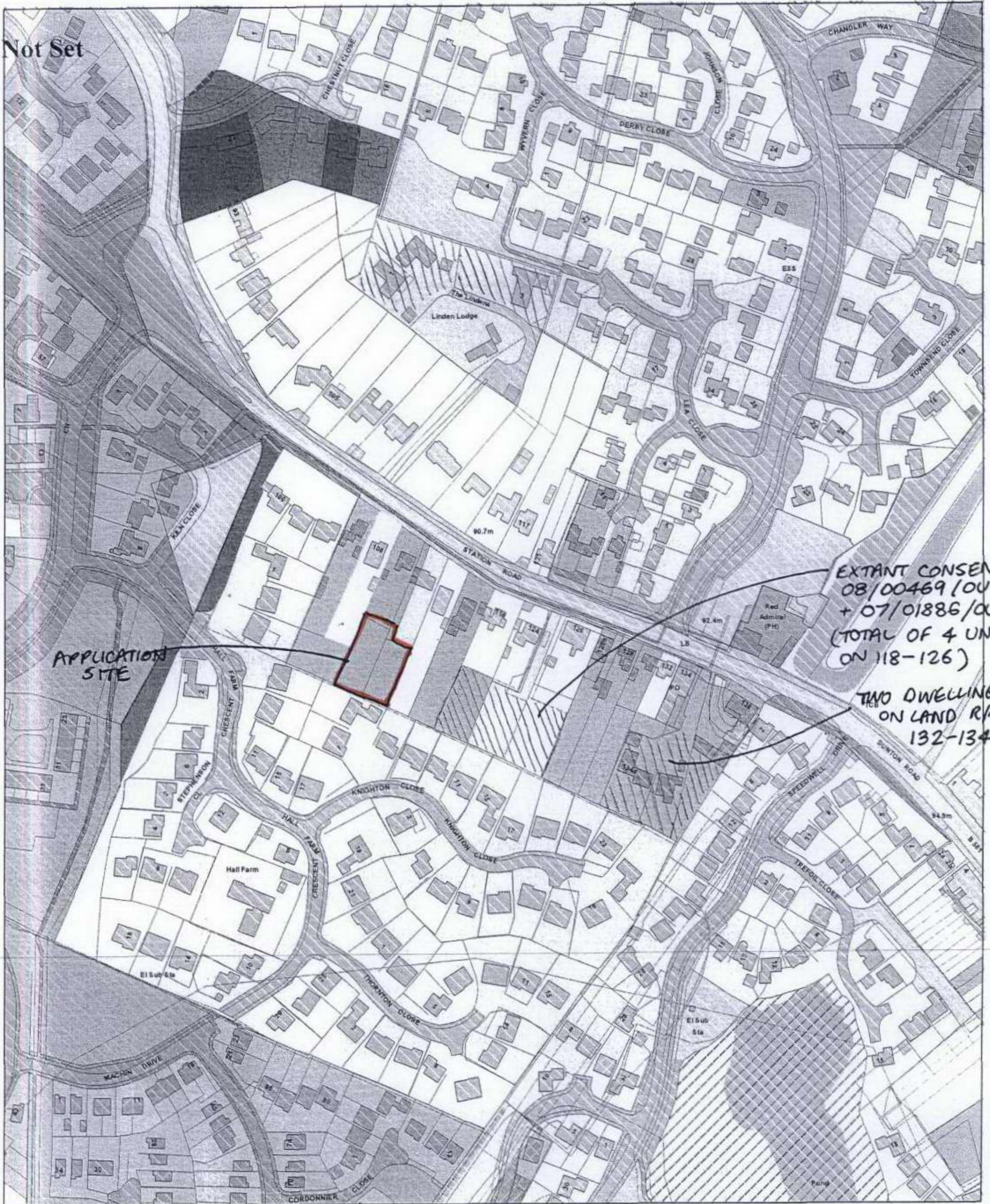


# Not Set



This map is reproduced from Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Harborough District Council, 2007.

SLA Number	100023843
------------	-----------

# Appeal Decision

Site visit made on 24 January 2006

By Sue Glover BA (HONS) MCD MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail:  
enquiries@planning-  
inspectorate.gsi.gov.uk  
Date

02 MAR 2006

**Appeal Ref: APP/F2415/A/05/1189706**

**47 Dunton Road, Broughton Astley, Leicestershire, LE9 6NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr & Mrs R Crofton-Mann against the decision of Harborough District Council.
- The application (Ref. 05/00636/OUT), dated 19 April 2005, was refused by notice dated 16 June 2005.
- The development proposed is a new bungalow.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

## Procedural Matters

1. All matters are reserved with the exception of the siting of the proposed bungalow and the means of access to it.

## Main Issue

2. I consider that the main issue is the effect of the proposed bungalow on the form and setting of Broughton Astley.

## Planning Policy

3. The development plan includes the *Harborough District Local Plan (LP)*. LP Policy HS/7 indicates that the individual character of settlements will be protected. Proposals will be refused that would adversely affect undeveloped areas of land important to the form and setting of a settlement, or where there are breaks in the street frontage which afford significant views of the countryside. The text indicates that limited new development of a scale compatible with the character of each settlement will normally be acceptable.
4. LP Policy HS/8 explains that planning permission for development within the defined limits of settlements will be permitted subject to the design and layout being in keeping with the scale, form, character and surroundings of the settlement, and that it would not adversely affect the amenities of residents in the area.
5. LP Policy IN/1 indicates that planning permission will be granted for new development which achieves a good standard of layout and design and is in keeping with the scale and character of its surroundings.

## Reasons

6. The site lies at the south eastern approach to the large village of Broughton Astley. This side of Dunton Road, in the vicinity of the appeal site, is characterised by a ribbon of houses and bungalows, each with a long rear garden with open fields beyond. Nearby, there is a significant break in the linear form at Thorneycroft Close and the adjoining nurseries where there is development in depth. Whilst I accept that the circumstances of the development of Thorneycroft Close may differ, its road frontage with Dunton Road is little different from the appeal proposal.
7. I note that the site lies within the settlement limits of the village and that neither the appeal site nor the adjoining gardens are defined within the LP as an area of important open land for its contribution to the form and character of the settlement. The site does not comprise a break in the street frontage and would not block any significant views of the countryside. As such, LP Policy HS/7 does allow limited new development. I have also taken into account advice in *Planning Policy Guidance 3: Housing*, which indicates that gardens are previously developed land.
8. Although the proposal is backland development, it is limited in scale and compatible in footprint size with nearby dwellings. As recommended by the Council, its height, and consequent bulk, could be restricted by condition, thus minimising the effect of its appearance on the form and setting of the village. I have also taken into consideration the dip in the land from the road and its rise upwards to the field at the rear, and the significant amount of mature vegetation in the rear gardens nearby. Given that the proposed bungalow would not be prominent, or indeed would scarcely be visible from public viewpoints, and its limited scale, I consider that the proposal would not unacceptably harm the scale, form, character and surroundings of the village.
9. In my view, the granting of planning permission for the appeal proposal would not set a precedent for future backland development, since each application and appeal must be judged in the light of the prevailing planning policies and on its own merits taking into account factors on the ground.
10. I conclude that the proposal would not harm the form and setting of Broughton Astley. The proposal therefore complies with LP Policies HS/7, HS/8 and IN/1 in this respect.

## Other Matters

11. I have had regard to concerns on those matters expressed by local residents, but, in my view, I consider that the proposal would not unduly affect the living conditions of adjoining residents in respect of privacy, outlook, noise and disturbance, and light emissions. In reaching this conclusion, I have taken into consideration the distances between dwellings, the difference in levels between properties and that privacy could be further enhanced by landscaping.
12. Whilst Dunton Road is busy and the junction with Orchid Place is sited opposite the appeal site, I am satisfied from my site inspection that the visibility from the proposed new access is acceptable. I do not consider that the increase in numbers of vehicles arising from one additional dwelling would be likely to be so significant as to harm highway safety. I note also that the Council has raised no highway objection to the proposal.

### Conditions

13. I have had regard to those conditions put forward by the Council. Given that matters of design and external appearance, and landscaping are reserved for further approval, I do not consider that conditions relating to the submission of external materials or a landscaping scheme are necessary. As indicated above, I intend to impose a condition restricting the height of the bungalow to 6.5m in order to reduce the effect of its appearance on the form and setting of the village. I also intend to impose a condition restricting gates or other obstruction to the access within 5m of the highway in order to discourage vehicles waiting on the highway that may cause a danger to highway safety.
14. I also do not consider that a condition regarding surface water drainage is either reasonable or necessary in this case, given that the proposed buildings would be sited to the rear at some distance from the road. I note that the Council does not support a request for a contaminated land assessment. Given the lack of any evidence in support of the need for such an assessment, I concur with the Council's view in this respect. The wording of the conditions I will impose is consistent with the advice in *Circular 11/95, The Use of Conditions in Planning Permissions*, and the thrust of the wording requested by the local planning authority.

### Conclusions

15. For the reasons given above and having regard to all other matters raised including the effect on drainage and wildlife, I conclude that the proposal is acceptable.

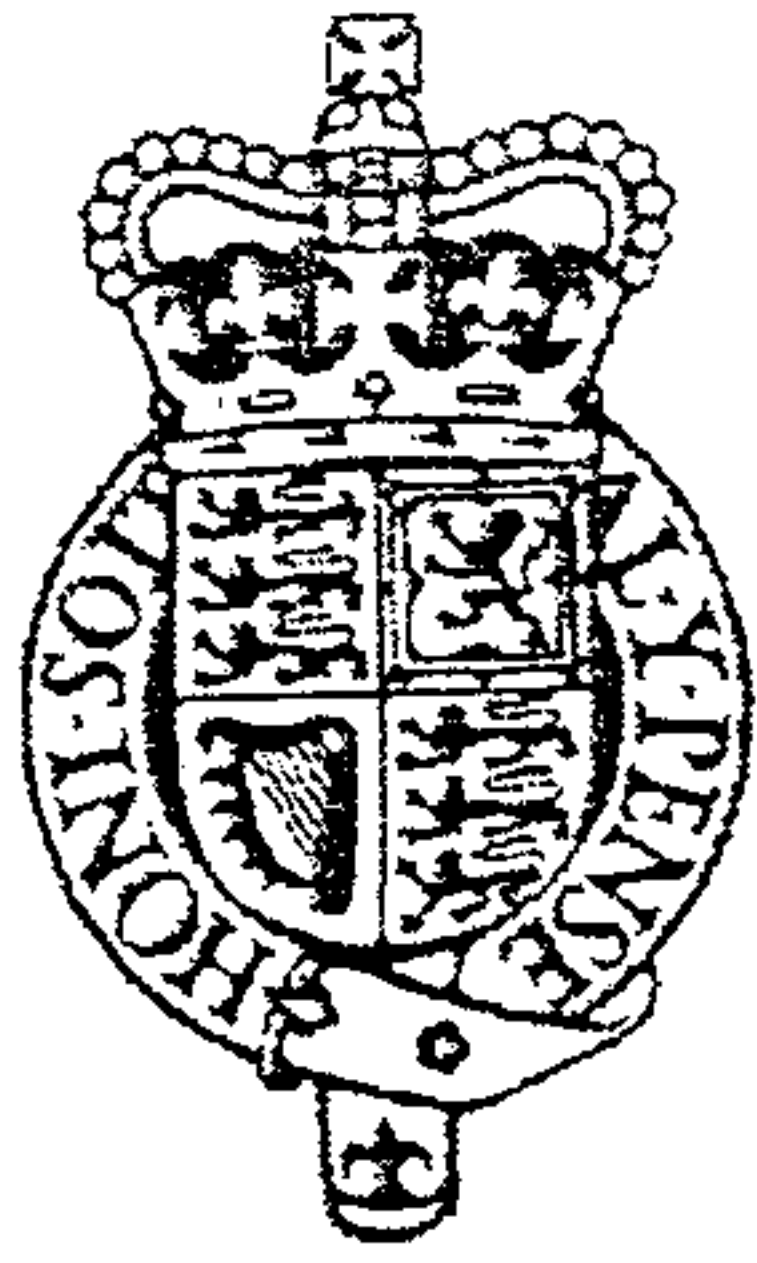
### Formal Decision

16. I allow the appeal, and grant outline planning permission for a new bungalow at 47 Dunton Road, Broughton Astley, Leicestershire, LE9 6NA in accordance with the terms of the application, (Ref. 05/00636/OUT), dated 19 April 2005, and the plans submitted therewith, subject to the following conditions:
  - 1) Approval of the details of the design and external appearance of the buildings, and the landscaping of the site, including details of boundary treatment, (hereinafter called "the reserved matters"), shall be obtained from the local planning authority in writing before any development is commenced.
  - 2) Plans and particulars of the reserved matters referred to in condition 1) above, relating to the design and external appearance of any buildings to be erected, and the landscaping of the site, including details of boundary treatment, shall be submitted in writing to the local planning authority and shall be carried out as approved.
  - 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
  - 4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
  - 5) The height of the bungalow shall not exceed 6.5m.

- 6) Any gates, barriers, bollards, chains or any other obstruction to the vehicular access shall be set back a minimum distance of 5 metres from the highway and shall be hung so as to open into the site only.

*Sue Glover.*

INSPECTOR



# Appeal Decision

Site visit made on 5 February 2007

by **Julie Dale Clark** BA (Hons) DpTRP MCD, DMS MRTPI

an Inspector appointed by the Secretary of State for  
Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: enquiries@planning-  
inspectorate.gsi.gov.uk

Date: 26 February 2007

**Appeal Ref: APP/F2415/A/06/2027788**

**43 Dunton Road, Broughton Astley, Leicestershire LE9 6NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr & Mrs Smith against the decision of Harborough District Council.
- The application (Ref 06/00766/OUT), dated 23 May 2006, was refused by notice dated 18 July 2006.
- The development proposed is an outline application for the erection of two dwellings.

**Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.**

## Procedural Matters

1. This is an outline application with siting and means of access applied for and design, external appearance and landscaping reserved for later determination. The layout plan (Ref: Smith/P2) indicates two dormer bungalows each with a double garage with an access running along the southern boundary of the site. I have based my assessment of this appeal on these details.

## Main Issue

2. I consider that the main issue is the effect of two dwellings on the character and appearance of the area.

## Planning Policy

3. The development plan includes the Harborough District Local Plan, adopted in 2001. The most relevant policies are IN/1, HS/7 and HS/8.
4. Policy IN/1 establishes that the Council will grant planning permission which achieves a good standard of layout and design, is in keeping with the scale and character of its surroundings and meets a set of listed criteria. Broughton Astley is identified in the Local Plan as a settlement with a defined limit to development and Policy HS/7 seeks to protect the individual character of settlements. The Council will refuse proposals that would adversely affect undeveloped areas of land important to the form and setting of the settlement; and breaks in the street frontage which afford significant views of the countryside.
5. Policy HS/8 indicates that the Council will grant permission within the defined limits of settlements where a set of criteria are met. Included is that the design and layout is in keeping with the scale, form, character and surroundings of the settlement and that the amenities of residents in the area are not adversely affected.

6. The Council refer to Supplementary Planning Guidance (SPG) which provides guidance on design issues in relation to single and small groups of dwellings. No indication has been given as to the level of public consultation carried out for this document. However, it was adopted by the Council in 2003 and so I have afforded it moderate weight.

### Reasons

7. The appeal site comprises a detached bungalow fronting Dunton Road and its long rear garden which backs onto open land. There are detached properties either side with similar long gardens. The site is within the settlement boundary of Broughton Astley, it is within the curtilage of the existing dwelling and so falls to be considered as previously developed land. In broad principle terms therefore, development would be consistent with the development plan policies and national advice.
8. Whilst Broughton Astley comprises a mix of dwelling types, sizes and ages with varying garden sizes, this section of Dunton Road, on its eastern side, is characterised by a linear development of detached properties with long rear gardens. However, the long rear gardens are not clearly visible from the main road and whilst attractive, do not seem to me to be a special characteristic feature of the village.
9. The site is not an undeveloped area of land, it is private garden land, nor does it allow significant views of the countryside. There are no breaks in the site's frontage as the existing dwelling, a fence and gate obscure through views. In terms of layout and scale two dwellings would sit satisfactorily on the site allowing each adequate space around it for amenity and parking and separation distances would ensure that no loss of privacy would occur between the proposed dwellings or between proposed and existing dwellings. Details of design are not included at this stage but I can see no reason why design cannot accord with the Council's policies and standards when it is addressed at a later detailed stage. On this basis I can see no harm to the character of Broughton Astley likely to arise from this development.
10. The Council has indicated that it would wish to see a more comprehensive development of the land behind Nos 39 to 45 Dunton Road rather than what it sees as piecemeal development. To my mind the Council accepts development that in some form would break up the long linear gardens. I am satisfied that this scheme satisfies policy HS/7 and I see no conflict with policy HS/8 in terms of the lack of harm to the settlement's character. The scheme satisfied the standards in policy IN/1 in terms of scale, privacy, space around the dwellings and access.
11. Although the Council may prefer to have seen a larger site and a comprehensive development come forward, the lack of harm that I have identified with this scheme, in my view, makes it acceptable in its own right. I conclude that two dwellings would not have a harmful effect on the character and appearance of the area and would not conflict with the Council's Development plan policies.

### Other Matters

12. My attention has been drawn to the allowed appeal at 47 Dunton Road. This related to one dwelling and the main issue was not dissimilar to that which I have identified here. However, my decision has been based on the planning policies put forward and the details of this application. I understand how the previous Inspectors decision and now mine could

be seen as setting a precedent for development of the other linear gardens nearby. However, the Council are not bound by particular appeal decisions and would be able to judge the merits of any future scheme against its development plan policies.

13. I have considered the matters put forward by neighbours and in particular the occupiers of No 45 Dunton Road. Whilst the outcome of my decision would mean that new houses could be built either side of its garden I do not consider the scale of these proposals nor their details, for example, in terms of overlooking, would harm the neighbours living conditions. I am also satisfied that there is adequate space on this site to ensure that appropriate boundary treatment and landscaping would minimise any effect.
14. Neighbours have expressed concern about increased traffic but I have no evidence before me that convinces me that an additional two dwellings will result in an unacceptable amount of traffic on Dunton Road. I have considered all other matters raised, none of which cause me to alter my conclusion.

### **Conditions**

15. The Council has suggested conditions which I have considered in the light of Circular 11/95 *The Use of Conditions in Planning Permissions*. I include the standard conditions for the submission of reserved matters but as design and external appearance are reserved for later approval I do not consider that conditions in relation to materials or landscaping are necessary. I am satisfied that at detailed stage the Council would be able to ensure matters such as facing materials, hard and soft landscaping and surfacing together with boundary treatments were appropriately dealt with.
16. The Council suggest a condition restricting the height of the properties to a maximum of 6.5m and to be single storey in nature. However, the site plan indicates dormer bungalows which are not single storey as such. Having said this, the appellants state that dormer bungalows can be built with a ridge height of 6.5m and so I intend to condition the height. However, I do not intend to stipulate single storey only.
17. A condition relating to drainage is suggested in order to reduce the possibility of surface water being deposited on the highway. Given the siting of the proposed dwelling, behind the existing bungalow, I do not consider such a condition necessary. In any event, drainage is dealt with by other legislation. The Council suggest that a desktop based contamination assessment is required to ensure that the land is fit for residential development. No indication has been given which suggests that any contamination may be present but given the lack of certainty, I intend to include a condition. I shall expand on the suggested wording however, to ensure that any remediation measures required would be carried out.
18. The Council suggest a number of conditions relating to the access. The application includes means of access and the submitted layout plan clearly shows the access, pedestrian visibility splays, turning areas and parking spaces. I see no necessity to include conditions in respect of these matters. A condition requiring a 2.4m x 90m visibility splay is suggested but there is nothing in the application or in the representations that indicate that there would be a highway safety issue if this splay could not be provided. I have no information before me that makes it clear that this can be provided and kept free and available as suggested. From my observations on site however, it seemed to me that there were clear views in both directions; the access is already used by the one dwelling and I see no difficulties in its use by an additional two vehicles. I see no need therefore for a condition in this respect.



19. The erection of gates across the access could cause difficulties if they were erected close to Dunton Road. However, a condition restricting the erection of any gates to the access seems to be unduly onerous although a condition ensuring that any gates were set back to enable a car to stand clear of the highway seems reasonable. A set-back of 5m would be appropriate and I intend including a condition in this respect. A condition regarding the gradient of the access is suggested so that vehicles can enter and leave the site in a slow and controlled manner. I do not see the necessity for this and given that the access already exists I can find no highways safety concerns over the gradient. I do not intend to add the suggested condition.
20. I note that consultation responses to the planning application, submitted with the questionnaire, include additional suggested conditions than those listed with the Council's appeal statement. Most of Leicestershire County Council's suggested conditions relating to highway and access matters have been dealt with above but two additional conditions relate to closing the existing access and restricting any development within the highway. At the time of my site visit there was one open access, the proposal clearly shows one access to serve all three dwellings and so I see no reason for a condition relating to closure of an access. Any works likely to encroach onto the highway can be dealt with by the Highway Authority and a condition is not necessary here.
21. Leicestershire County Council recommends a watching brief for protected species throughout the development works. The County Council indicate that badgers and great crested newts have been recorded in the vicinity of the site but that field to field data indicates that this development should not have a negative affect on any known sites of ecological importance. Other legislation provides a safeguard for protected species and I do not consider that a condition is appropriate in this case. I note that the Council in its appeal statement do not suggest a condition in this regard.
22. I note that an internal consultation response from the Council's Health and Environment Services includes additional suggested conditions than those put forward with the Council's statement. Included is a condition restricting the times and days when building works and deliveries could take place. Dunton Road is a main road through Broughton Astley and such a restriction would be unreasonable. This and the other conditions suggested are covered by other legislation and fail to satisfy the tests in Circular 11/95. I do not therefore intend to add those suggested.

### **Conclusion**

23. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

### **Formal Decision**

24. I allow the appeal and grant planning permission for the erection of two dwellings at 43 Dunton Road, Broughton Astley. Leicestershire LE9 6NA in accordance with the terms of the application Ref. 06/00766/OUT dated 23 May 2006, and the plans submitted therewith, subject to the following conditions:
  - 1) Details of the design, external appearance of the buildings and the landscaping of the site, including boundary treatment, (hereinafter called "the reserved matters") shall be

submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority within three years from the date of this permission.
- 3) The development hereby permitted shall begin within two years from the date of approval of the last of the reserved matters to be approved.
- 4) The maximum height of the dwellings shall not exceed 6.5m.
- 5) Prior to the commencement of development a desktop based contamination assessment shall be carried out. The assessment and any remediation measures required should be submitted to and approved in writing by the Council and development shall not commence until the approved measures have been implemented.
- 6) Any gates erected to the vehicular access shall be set back a minimum of 5m from the highway.

*J D Clark*

INSPECTOR