

Report of the Chief Executive

APPEAL DECISION

Reference Number : **17/00690/ROC**
Applicant/Agent : **Mrs L Wilde**
Site Address : **Orchard House, 6 Brown's Flats, Kimberley, NG16 2JU**
Proposal : **Removal of condition 1 (The first floor windows to the north west elevations serving bedroom 2 shall be obscurely glazed....) of planning ref: 12/00322/FUL (NMA).**

APPEAL DISMISSED

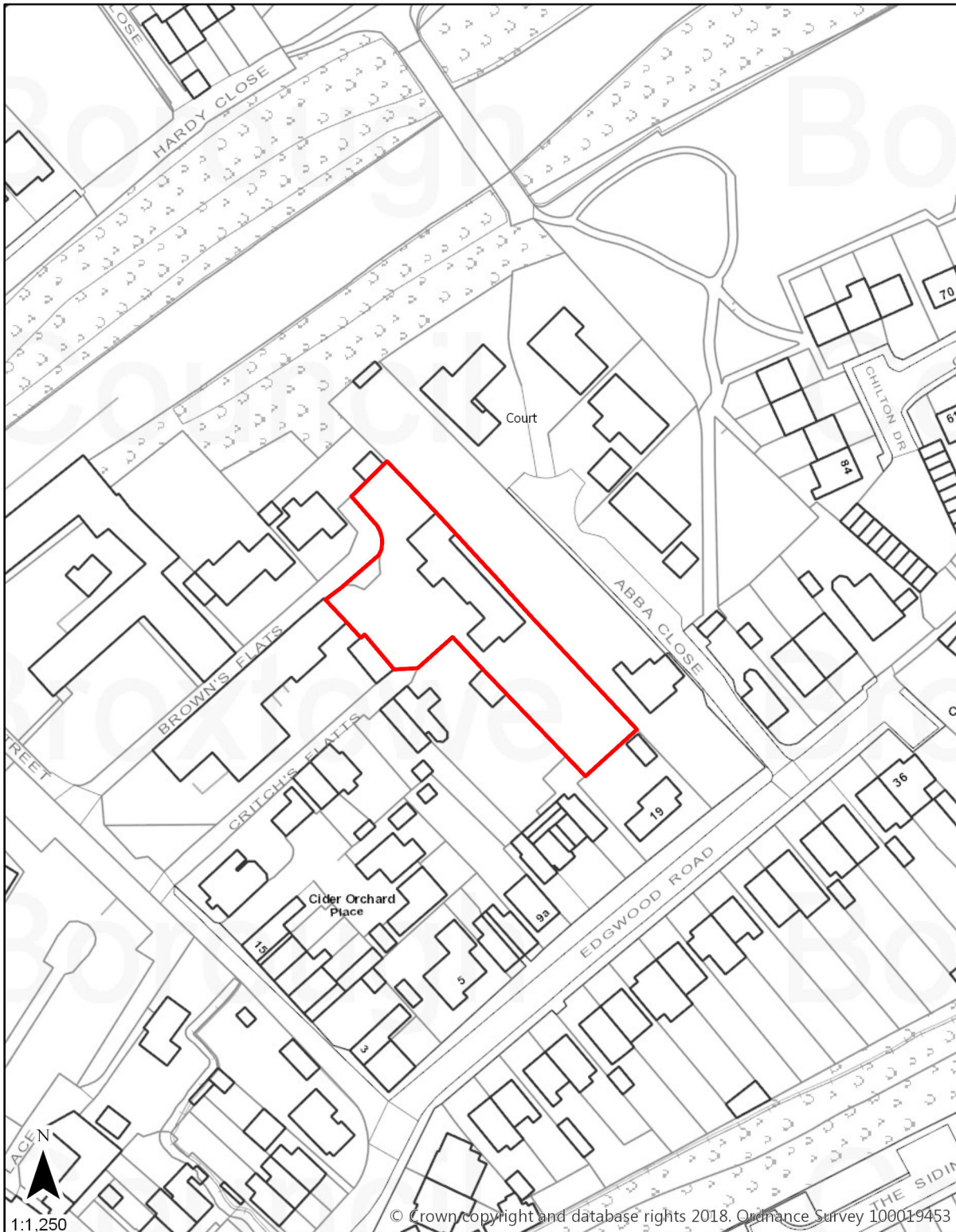
The application sought to remove a condition attached to 12/00322/FUL by way of a non-material amendment which required the first floor windows in the north-west elevation to be obscurely glazed and fixed shut.

This was refused under delegated powers on 24 October 2017 for the following reasons;

The Condition, requiring the northwest facing, first floor windows to Bedroom 2 to be permanently closed and obscurely glazed, was imposed to safeguard the privacy and amenity of the occupants of the two adjoining residential properties at 21 Edgwood Road and 5 Browns Flats. It is not considered that there has been any convincing evidence put forward to demonstrate that there has been a material change in the site circumstances, which would result in the privacy of the occupants of these neighbouring properties being protected, should this Condition to be removed'.

The Inspector considered the main issue to be whether the condition is necessary/reasonable in order to preserve the living conditions of the occupiers of No.5 Brown's Flats and No.21 Edgwood Road.

In dismissing the appeal, the Inspector considered that whilst views to both neighbouring properties affected would be oblique rather than direct the occupiers of these properties would be conscious of being overlooked which would affect their sense of privacy. He considered that the bedroom affected was sufficiently lit by an existing dormer window and the obscure glazing allowed diffused light into the room. Whilst he acknowledges that there will always be a certain amount of inter-visibility between windows in urban areas such as the appeal site, there is a balance between what is reasonable and what is excessive and in this case he considers the condition necessary to safeguard the privacy of the adjoining neighbours at 5 Brown's Flats and 21 Edgwood Road.



Legend

□ Site

Reference Number : **17/00486/FUL**
Proposal : **Construct workshop following demolition of garages and workshop**
Site Address : **54A Carrfield Avenue, Toton, Nottinghamshire, NG9 6FB**
Applicant : **Mr Steve Wheatley**

APPEAL ALLOWED

The proposal was to replace a number of existing buildings with a purpose built workshop which would be used for car repairs.

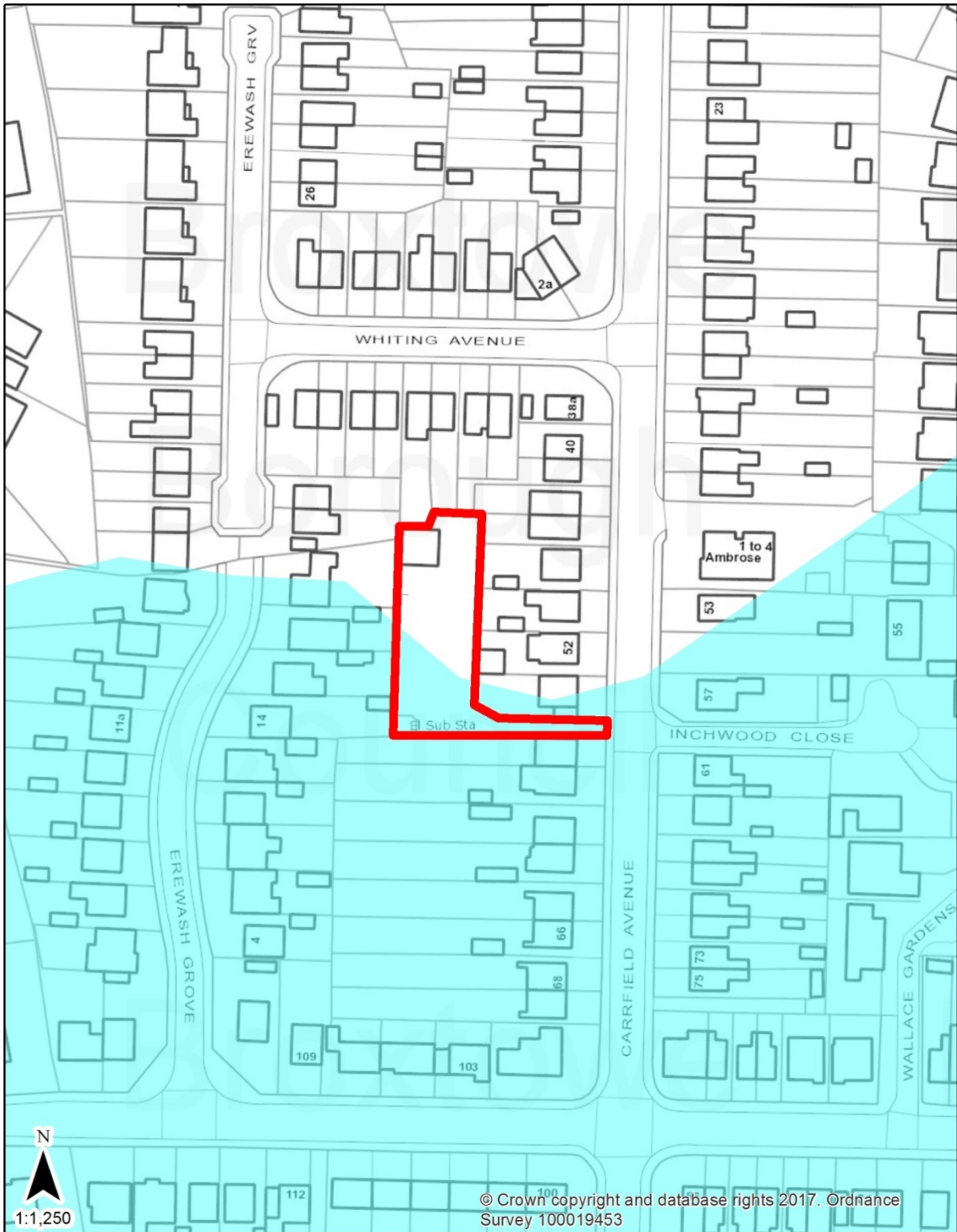
The application was refused by Planning Committee on the 14 February 2018 due to concerns that the scale and materials of the proposed building would result in an adverse impact on the amenity of occupiers of neighbouring properties.

The Inspector considered that the main issue was the effect of the proposal on the living conditions of the occupiers of nearby dwellings with reference to noise, other disturbance, and outlook.

The Inspector concluded that the development would result in a purpose-built building of modern materials in contrast to the “makeshift and somewhat dilapidated” existing buildings and that it would not result in any significant noise disturbance over and above current levels and that the residential amenity of nearby residents would be protected. With regards to the proposed materials, the Inspector considered that, unlike the existing situation, the building could be insulated to meet current standards which could be secured by condition.

In respect of outlook, the Inspector considered that the increase in height compared with the existing building would be modest and the setting back of the main workshop building from the boundary with the Carrfield Avenue properties affords a buffer which would help to mitigate its impact. The Inspector concluded that the development would not be unacceptably overbearing or dominant in terms of the outlook from the rear facing windows and gardens of the affected properties on Carrfield Avenue and Erewash Grove.

The appeal was allowed with the Inspector being satisfied that the development would amount to a sustainable form of development which would accord with policies of the development plan and the National Planning Policy Framework when taken as a whole. Conditions were included to control the hours of working, to prevent body repair work, to prevent outside storage, to require the approval of a noise insulation scheme and to require the approval of the materials to be used.



Legend

-  Site
-  Flood Zone 3
-  Flood Zone 2

Reference Number : **17/00154/FUL**
Proposal : **Construct apartment block consisting of 8 flats following demolition of existing bungalow**
Site Address : **2A Lily Grove, Beeston, Nottingham, NG9 1QL**
Applicant : **Mr Ian Upton**

APPEAL DISMISSED

The proposed development was to demolish the existing bungalow and construct a three-storey building comprising 8 apartments. The application was refused by Planning Committee on the 8 November 2017 as the development was considered to be over intensive development, resulting in an adverse impact on neighbouring amenity through overlooking and overbearing impacts on residential properties to the side and rear of the site. It was also considered that substandard parking provision would lead to on-street parking and harm to highway safety.

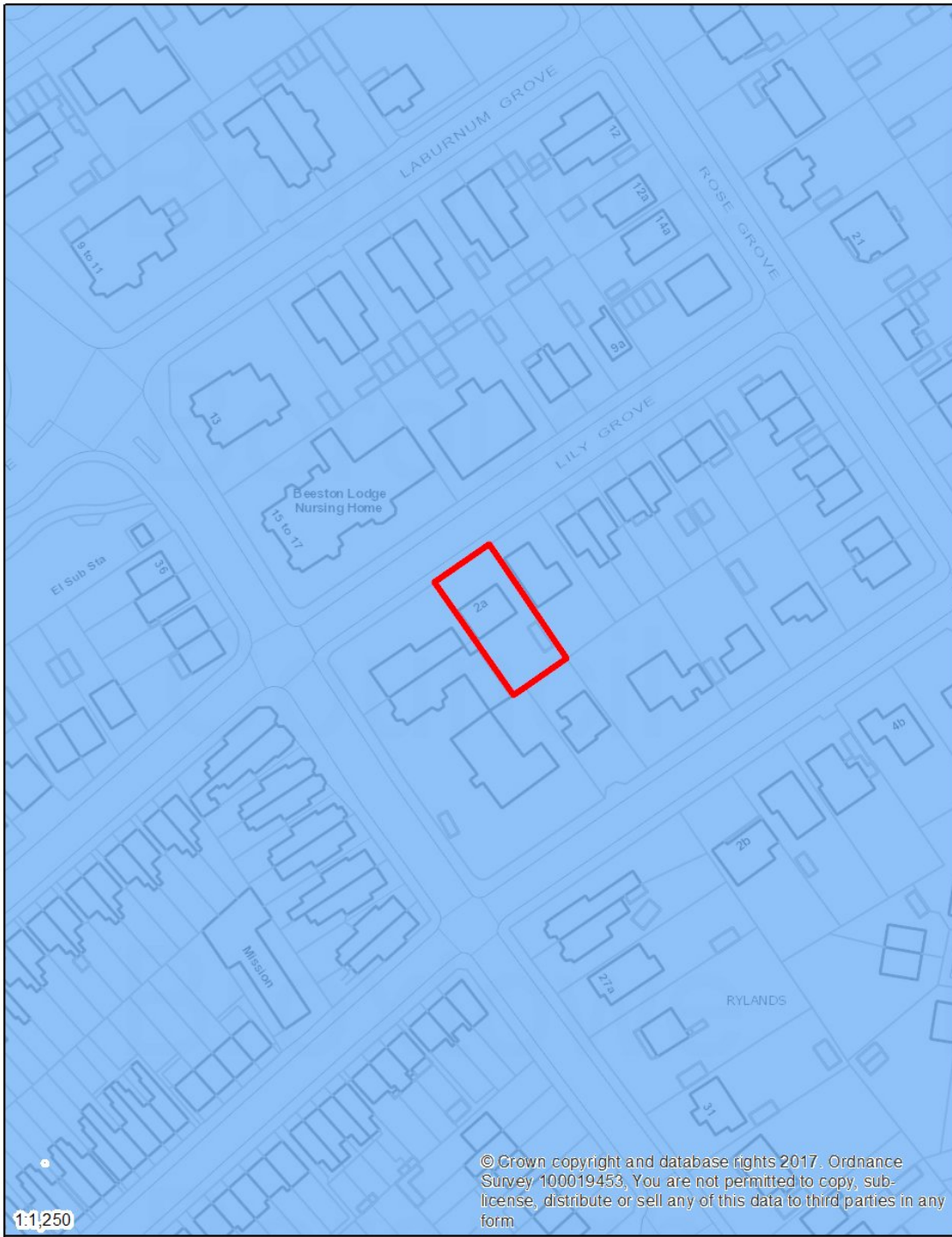
The Inspector considered that the two main issues were the effect of the proposal on the living conditions of nearby properties and whether the proposal would be harmful to highway safety.

The Inspector concluded that the development would be visually dominant, overbearing, and oppressive as a consequence of the height, depth and bulk of the building, its position very close to the boundary with 2 Lily Grove, and its projection beyond the rear elevation of number 2. Due the location of the proposed building on the south-west side there would also be some reduction of light to existing roof light windows and part of the rear garden.

Due to its height and bulk, the Inspector considered that the development would appear unacceptably overbearing and would dominate the outlook from the rear facing windows and garden of 1 Lavender Grove. He also considered that it would not be satisfactory in terms of the living conditions of future occupiers for the bedroom windows of the second floor flats to be both high-level and obscure-glazed. The development would also be oppressive and unacceptably affect the outlook from bedroom windows in the Fairhaven Hotel.

With regards to parking, the Inspector accepted that there will be additional parking pressures arising from the development but identified the site was within close proximity to the railway station, was well-served served by public transport and that the size and nature of the flats would be unattractive to family occupiers with children. He concluded that the proposal would not significantly increase demand for parking in the surrounding area and there would be no material harm to road safety.

The Inspector concluded that that the adverse impacts of granting approval (the harm to residents living conditions) would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.



- Legend**
-  Site
 -  Flood Zone 3
 -  Flood Zone 2

Reference Number : **17/00285/FUL**
Applicant/Agent : **Mr M Copeland**
Site Address : **Land to rear of 51a & 51b Mill Road, Newthorpe,
Nottinghamshire, NG16 3QG**
Proposal : **Construct dwelling**

APPEAL ALLOWED

The application sought planning permission to construct a detached dwelling on garden land to the rear of 51a and 51b Mill Road. The application was refused by Planning Committee on 21 June 2017 for the following reason:

The proposed development, by virtue of its massing, scale, proportions and siting would have an unacceptable impact on neighbouring amenity contrary to Policy H7 of the Broxtowe Local Plan (2004) and Policy 10 of the Aligned Core Strategy (2014).

The Inspector considered that the main issue in the determination of the appeal was the effect the proposal would have on the living conditions of the occupiers of neighbouring properties in respect of their privacy and outlook. Although the Inspector considered that the dwelling would be clearly visible from number 53 Mill Road, given the considerable gap between the two dwellings and the majority of the built form being hidden behind the boundary fence, the dwelling was not considered overdominant to the extent that the outlook from number 53 would be unacceptably harmed. Furthermore, it was considered there would be no material impact on the privacy of the occupiers of number 11 Kirkby Close given the design and the raised land levels of number 11. Overall the proposal was considered to be in accordance with Policy H7 of the Broxtowe Local Plan and Policy 10 of the Aligned Core Strategy, which both aim to ensure development protects the amenity of the occupiers of nearby properties. The appeal was allowed.

Application for Costs

An application for costs was made by the appellant on procedural and substantive grounds.

The applicant considered that the Council had behaved unreasonably due to the Planning Committee refusing the planning application, causing unnecessary and wasted expense in the appeal process. The Inspector noted that although all four proposals were recommended for approval by officers and that the applicant had received positive informal advice from officers throughout, the Council's repeated refusal of the applications illustrated a difference in opinion between officers and members, and it was not unreasonable for members to reach a different view to officers. In summary, the Inspector did not consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance had been demonstrated and the award of costs was refused.

Report of the Chief Executive

[Darren Ottewell]

APPEAL DECISION

Reference Number : **17/00649/FUL**
Applicant/Agent : **Mr M Copeland**
Site Address : **Land to rear of 51a & 51b Mill Road, Newthorpe, Nottinghamshire, NG16 3QG**
Proposal : **Construct dwelling (revised scheme)**

APPEAL DISMISSED

The application sought planning permission to construct a detached dwelling on garden land to the rear of 51a and 51b Mill Road. The application was refused by Planning Committee on 06 December 2017 for the following reason:

The proposed development, by virtue of its massing, scale, proportions and siting would have an unacceptable impact on neighbouring amenity, through loss of privacy and an overbearing impact, contrary to Policy H7 of the Broxtowe Local Plan (2004) and Policy 10 of the Aligned Core Strategy (2014).

The Inspector considered that the main issue in the determination of the appeal was the effect the proposal would have on the living conditions of the occupiers of neighbouring properties in respect of their privacy and outlook. The Inspector noted that the dwelling would measure over 6.5m in height to ridge and, due to the topography, would appear taller than number 53. Accordingly, the Inspector considered the proposal would appear overdominant when viewed from number 53, such that outlook would be significantly harmed. Furthermore, the degree of overlooking from the proposal would lead to a loss of privacy for the neighbouring occupiers. The proposal was considered contrary to Policy H7 of the Broxtowe Local Plan and Policy 10 of the Aligned Core Strategy, which both aim to ensure development protects the amenity of the occupiers of nearby properties. The appeal was dismissed.

Application for Costs

An application for costs was made by the appellant on procedural and substantive grounds.

The applicant considered that the Council had behaved unreasonably due to the Planning Committee refusing the planning application, causing unnecessary and wasted expense in the appeal process. The Inspector noted that although all four proposals were recommended for approval by officers and that the applicant had received positive informal advice from officers throughout, the Council's repeated refusal of the applications illustrated a difference in opinion between officers and members, and it was not unreasonable for members to reach a different view to officers. In summary, the Inspector did not consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance had been demonstrated and the award of costs was refused.

