

Case Officer: Sarah Kay File No: CHE/20/00020/MA
Tel. No: (01246) 345786 Plot No: 2/4638
Decision Date: 30th March 2020 (subject to Covid-19 revised procedure)

ITEM 2

MATERIAL AMENDMENT TO CHE/17/00459/FUL - NEW DWELLING ON LAND ADJACENT TO 82 WALTON ROAD INC. RECONFIGURING OF BOUNDARY BETWEEN NO 82 AND A NEW SITE CROSSOVER (REVISED PLANS RECEIVED 06/03/2020) AT 82 WALTON ROAD, WALTON, CHESTERFIELD, DERBYSHIRE, S40 3BY FOR MS ANDREA COLLINS

Local Plan: Unallocated
Ward: Walton

1.0 **CONSULTATIONS**

Local Highways Authority	No comments received
Ward Members	No comments received
Site Notice / Neighbours	Two representations received

2.0 **THE SITE**

2.1 The site the subject of the application currently forms part of the rear garden of No 82 Walton Road in Walton which is a detached two storey property constructed of rendered brickwork and plain tiles with white windows. The property sits on a corner plot with its predominantly northern boundary shared with Delves Close.

2.2 The site is approximately 12.5m wide x 12.5m deep and sits adjacent to the neighbours' detached garage which is accessed off Delves Close. There is a mature boundary hedge growing along the length of the Delves Close and the other common boundaries (with No 84 Walton Road and No 1 Delves Close) comprise of a concrete post and timber panel fence with pockets of shrubbery planted intermittently. The site is relatively level and is currently laid to lawn.





3.0 **RELEVANT SITE HISTORY**

3.1 CHE/17/00459/FUL – Re-submission of CHE/17/00135/FUL – New dwelling on land adjacent to 82 Walton Road inc. reconfiguring of boundary between no 82 and the new dwelling along with a new site crossover. Approved 08/08/2017.

3.2 CHE/17/00135/FUL - Erection of a single storey dwelling including reconfigure boundary between No.82 and new dwelling along with new site crossover onto Delves Close. Refused on 26/04/2017.

4.0 **THE PROPOSAL**

4.1 In August 2017 planning permission was granted on land at 82 Walton Road for a detached two bedroomed dormer bungalow with a new dropped crossing formed to Delves Close to provide driveway parking for 2 no. vehicles.

4.2 This application, submitted under S73 of the Town and Country Planning Act 1990, seeks a material amendment to that planning permission for the following changes to the previously approved scheme:

- a) increase size of dormer windows
- b) increase size of ground floor windows facing Delves Close
- c) replace central ground floor window to Delves Close with door
- d) include chimney to north east elevation
- e) increase size of doors from kitchen to garden
- f) additional window to bathroom on first floor on south east elevation (to be obscure glazing and fixed shut)
- g) upvc window / door frames to be grey colour
- h) add cedar cladding to elevations

i) replace facing brickwork with render finish

4.3 The application submission is supported by Drawing No's P03A, P04A, P05A, P08A, P10A, P11A, P15A and P17, a Design and Access Statement, an Energy Statement and a Coal Mining Risk Assessment.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.1.1 The site is situated within the built settlement of Walton ward in an area predominantly residential in nature. Having regard to the nature of the application policies CS2 and CS18 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.1.2 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national / local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

5.1.3 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.

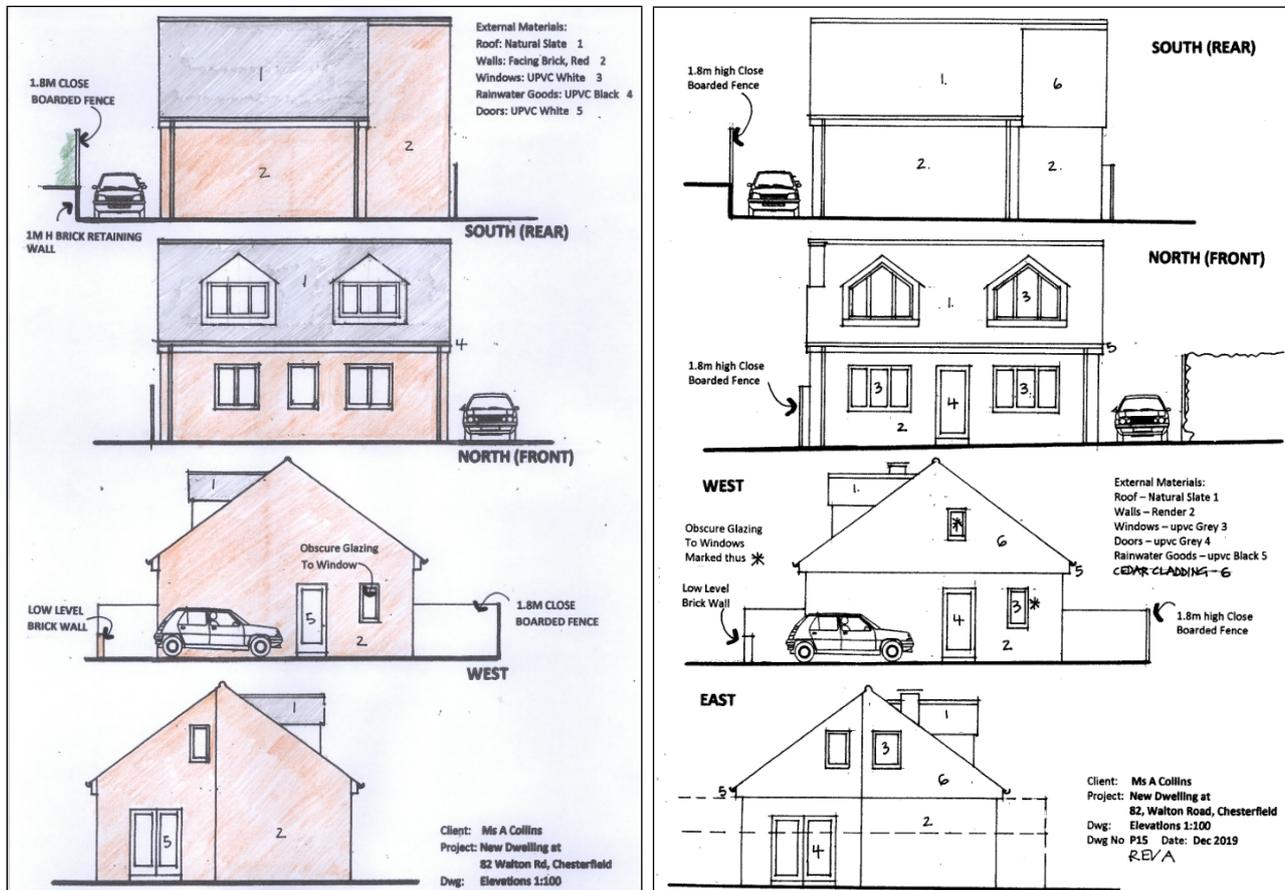
In addition to the above, the NPPF places emphasis on the importance of good design stating:
'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.1.4 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.
- 5.1.5 Having regard to the nature of the application submission, the principle of development is established through the current live planning permission and albeit that this latest application is submitted under S73 of the TCPA to vary the permission, the amendments sought are limited to matters of design. The proposals maintain the same scale and density as already agreed and therefore given the fallback position of the current live planning permission, it is not considered that the principle of development is unacceptable.

5.2 **Design and Appearance Considerations**

- 5.2.1 Having regard to the nature of the application proposals, the amendments being sought (under S73 of the TCPA) are detailed as follows:
- a) increase size of dormer windows
 - b) increase size of ground floor windows facing Delves Close
 - c) replace central ground floor window to Delves Close with door
 - d) include chimney to north east elevation
 - e) increase size of doors from kitchen to garden
 - f) additional window to bathroom on first floor on south east elevation (to be obscure glazing and fixed shut)
 - g) upvc window / door frames to be grey colour
 - h) add cedar cladding to elevations
 - i) replace facing brickwork with render finish
- 5.2.2 Under the provisions of the live planning permission, the siting and position of the dwelling is fixed and the design changes which are

now being sought are considered to be minor in terms of their prospective design and appearance impacts. The images below show a comparison between the approved scheme and the design changes being sought:



5.2.3 Having regard to the changes proposed it is not considered that any of the design alterations are inappropriate in streetscene terms. The changes are minor and the amendments to finishes and colours are all acceptable given the mix of architectural styles and finishes in the immediate surrounding area.

5.2.4 Having regard to policies CS2 and CS18 of the Core Strategy and the Council's own adopted SPD 'Successful Places' infill development is required to demonstrate an appropriate relationship to the surrounding area in terms of both streetscene and character / context. This includes preservation of privacy / amenity to adjoining and adjacent neighbours as well as the provision of an acceptable level of amenity to future occupants of the proposed development.

- 5.2.5 The scheme permitted by the live permission included measures to ensure that overlooking to any adjoining / adjacent neighbours was considered to be acceptable. This meant that the dwelling did not include any window openings in the rear elevation and only non-habitable window openings (which were fixed and obscured) were permitted in the side elevations. The revised scheme does not include the insertion of any windows in the rear elevation, thus the level of privacy / amenity with No 82 remains as agreed.
- 5.2.6 The amendments sought do include the addition of first floor window opening in the side elevations of the dwelling. One is proposed in the west elevation serving an en-suite bathroom which is to be obscurely glazed. One is proposed in the east elevation which will serve as a secondary window to the bedroom at first floor.
- 5.2.7 Whilst it is considered that the additional window to the en-suite bathroom in the west elevation will be acceptable, it will have to be required to be fixed or have no opening below 1.7m internal cill level. Otherwise it could be side opening and then overlook the adjacent neighbours garden and windows.
- 5.2.8 The additional window to the east elevation however would not be acceptable unless this too was obscure glazed and fixed or have no opening below 1.7m internal cill level. This window will directly overlook the driveway and garden of No 84 Walton Road (which is taken from Delves Close) and could therefore present an amenity / overlooking concerns without these provisions in place. An appropriate condition can be imposed to control these requirements.
- 5.2.9 Turning to the amendments to the principle elevation, these include the insertion of a front door and a slight increase in the size of the 2 no. front dormer windows. All of these changes are considered to be acceptable and do not give rise to any adverse neighbouring amenity concerns.

5.3 **Highways Issues**

- 5.3.1 Having regard to the nature of the application, the proposals to the design of the dwelling do not materially change the highways considerations already agreed.

- 5.3.2 Under the provisions of the current planning permission a driveway and 2 no. parking spaces have been approved to serve the new dwelling. The latest amended plans do not alter the position of the proposed driveway or the level of parking and therefore there are no highway matters arising from the design changes the subject of this latest application.
- 5.3.3 In respect of the proposed development it is considered that the creation of a new dropped crossing to Delves Close to serve the development would be acceptable in principle, albeit that the applicant will have to cover the expense of relocating the grit bin to facilitate this. The driveway shown to serve the development would provide off road parking for two vehicles, which is an acceptable level of provision although its use would be reliant upon vehicles either reversing into or out of the driveway onto the public highway. Notwithstanding this Delves Close is a quiet residential cul-de sac and this operation would not be considered harmful to highway safety given the geometry of the road and likely vehicle speeds.
- 5.3.4 It is noted that the LHA previously suggested that the driveway be served by visibility splays measuring 2.4m x 43m in both directions, but it is not clear if they have measured these splays either on site or on the submitted site layout plan to confirm they are achievable. Based upon the site layout plan submitted it would appear that the footway measures 2.4m in depth suggesting all the required visibility would be in highway impacts none the less. They also comment that the grit bin should not impede visibility but its dimension is lower than 1m in height so could remain in the highway at any point and meet the requirements of the condition the Highway Authority have requested.
- 5.3.5 The other conditions previously requested by the LHA would appear reasonable and achievable. Gates would obstruct the use of the driveway given its limited dimensions and the required gradient is achievable as the land is relatively flat to the highway channel already.
- 5.3.6 Overall therefore it is considered that the development proposed details an appropriate level of off road parking provision (which would need to be conditioned for retention if approved) and the development can be served by the creation of a suitable driveway access. Accordingly in respect of highway safety the relative

provisions of policies CS2 and CS18 of the Core Strategy and the SPD are met.

5.4 **Community Infrastructure Levy (CIL)**

5.4.1 Having regard to the nature of the application proposals the development comprises the creation of new dwellings and the development is therefore CIL Liable.

5.4.2 The site the subject of the application lies within the medium CIL zone and therefore the CIL Liability will be calculated (using calculations of gross internal floor space and be index linked).

	A	B	C	D	E
Proposed Floorspace (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
90	90	£80 (High Zone)	334	288	£8,350

Net Area (A) x CIL Rate (B) x BCIS Tender Price Index (at date of permission) (C) / BCIS Tender Price Index (at date of Charging Schedule) (D) = CIL Charge (E).

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by neighbour notification letters sent on 15/01/2020 and by site notice posted on 17/01/2020.

6.2 As a result of the applications publicity there have been two letters of representation received as follows:

84 Walton Road

I cannot see from comparing the two applications what is materially changing; please can you confirm?

The D&AS states there are no windows / doors facing the garden of No 84 on the south elevation – so no overlooking. This completely ignores the fact that there are windows / doors proposed that will overlook my driveway and garden on the east elevation – which I strongly object to.

The application includes plans for a 1.8m high fence between No 84 and the new dwelling – the fence is currently my responsibility to maintain and I replaced most of it in summer 2019. Are they planning to remove my fence and put a new one in? The current fence is below 1.8m so I would have no objection to them replacing the fence subject to me overseeing the installation and it not moving further onto my land;

Given the location of No 82 (on the corner of Walton Road / Delves Close) will there be parking provided for No 82 as well as the new development? Currently residents park at the top of Delves Close, with the only alternative being Walton Road which would obscure views pulling out;

I note the previous application was approved subject to conditions, and I assume these will still stand?

3 Delves Close

Please can you confirm that there will be parking for the new residential address, as well as for 82 Walton Road?

In the past 82 Walton Road have parked at the top of Delves Close making it difficult for people trying to leave Delves Close, forcing people to use the other side of the road and being in danger of cars turning onto Delves Close.

6.3 ***Officer response: The application cannot revisit the principle of the development or amend the parameters already agreed by the live planning permission. Please refer to section 5.2 and 5.3 above.***

7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.
- 7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.
- 8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.
- 9.0 **CONCLUSION**
- 9.1 The principle of development is established by the existence of the planning permission CHE/17/00459/FUL which is a planning fall-back position that must carry significant weight. Having regard to the parameters set by the agreed consents the material amendments sought are considered to be appropriate in respect of scale, appearance, layout and access and the changes are not so significant in planning terms that a refusal of permission can be substantiated. The proposals will not adversely impact upon adjoining neighbouring amenity or the character of the local area to

the point that the development is inappropriate. The development is considered appropriate in the context of the streetscene and will not be detrimental to any acknowledged planning interest. The proposals are considered to accord with the provisions of policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider NPPF.

10.0 **RECOMMENDATION**

10.1 That a CIL Liability notice be issued as per section 5.4 above.

10.2 That the application be **GRANTED** subject to the following:

Conditions

01. The development hereby permitted shall be begun before the expiry of three years from the date of the original planning permission CHE/17/00459/FUL (i.e before the 7th August 2020).

Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.

02. All external dimensions and elevational treatments shall be as shown on the approved plans (P03A, P04A, P05A, P08A, P10A, P11A, P15A and P17) with the exception of any approved non material amendment.

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

03. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - To ensure that the development can be properly drained and In the interest of satisfactory and sustainable drainage.

04. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason - To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

05. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Reason - To fully establish the presence and / or otherwise of any coal mining legacy affecting the application site.

06. Before any other operations are commenced the new access to Delves Close shall be formed with visibility splays measuring 2.4m x 43m in both directions. The land in advance of the sightlines shall be retained throughout the life of the development free from any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

07. The dwelling shall not be occupied until space has been laid out within the site in accordance with the approved drawing for cars to parked.

Reason – In the interests of highway safety.

08. The driveway / car spaces hereby permitted shall be kept available for the parking of motor vehicles at all times.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1992 (or any Order revoking and/or re-enacting that Order) the driveway / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of highway safety.

09. There shall be no gates or other barriers on the access / driveway.

Reason – In the interests of highway safety.

10. The proposed driveway / access to Rectory Road shall be no steeper than 1 in 14 over its entire length.

Reason – In the interests of highway safety.

11. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

12. Work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason - In the interests of residential amenities.

13. In the event it is proposed to import soil onto site in connection with the development the proposed soil shall be sampled at source and analysed in a MCERT certified laboratory, the results of which shall be submitted to the Local Planning Authority for consideration. Only the soil approved in writing by the Local Planning Authority shall be used on site.

Reason - To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.

14. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings.

15. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. The hard landscaping scheme shall take account of any root protection areas to retained trees / hedgerows on site and may require alternative measures of construction and finishes to be considered. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwelling.

Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.

16. The windows positioned in the west / side elevation serving the ground floor and first floor shower rooms and the entrance lobby doorway shall be fitted with obscure glazing (to a minimum obscurity level 4 or 5) prior to occupation of the dwelling hereby approved. Furthermore any windows to the first floor shall be non opening, or shall only include openings above 1.7m measured internally. Only glazing meeting this specification shall be installed and retained thereafter in perpetuity.

Reason – In the interests of neighbouring amenity.

17. The first floor windows positioned in the east / side elevation serving the bedroom shall be fitted with obscure glazing (to a minimum obscurity level 4 or 5) prior to occupation of the dwelling hereby approved. Furthermore any windows shall be non opening, or shall only include openings above 1.7m measured internally. Only glazing meeting this specification shall be installed and retained thereafter in perpetuity.

Reason – In the interests of neighbouring amenity.

Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
03. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all

reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

04. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms regarding the undertaking of access works within highway limits is available via the County Council's website [http://www.derbyshire.gov.uk/transport and roads/roads and traffic/development control/vehicular access/default.asp](http://www.derbyshire.gov.uk/transport%20and%20roads/roads%20and%20traffic/development%20control/vehicular%20access/default.asp) e-mail ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190
07. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.