

Application Ref: 18/01907/FUL

Proposal: Change of use of land at rear of garden from undefined to garden use and brick built outbuilding to store tools and garden equipment – (retrospective)

Site: 38 Grimshaw Road, Peterborough, PE1 4ET,
Applicant: Mr Mohammed Ulhaq

Agent: n/a

Referred by: **Councillor Joseph**

Reason: It would seem that the proposal is in direct contravention of the Habitats and Biodiversity policy and this needs to be reviewed before any irreversible damage is done to our local wildlife.

Site visit: 27.11.2018

Case officer: Mr Jack Gandy
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Recommendation: **GRANT** subject to conditions.

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site comprises a parcel of land to the rear of No. 38 Grimshaw Road. This land is part of a larger ditch that is to the rear of properties along Grimshaw Road and is north of a playing field that serves the Thomas Deacon Academy to the south. Shrubs and trees line this ditch. This ditch does not have a registered land owner.

Proposal

Retrospective permission is sought for the change of use of this land to be used as a garden, to serve No. 38 Grimshaw Road, along with the construction of a boundary wall and outbuilding, both in red brick.

The land changing use measures approximately 10.8 metres wide by 2 metres in depth. This has been enclosed by a boundary wall that measures approximately 2 metres in height. A single storey outbuilding is positioned across the original garden and the land proposed to be used as a garden. The proposed outbuilding measures approximately 4.7 metres in depth by 2.7 metres in width. The ridge to the retrospective structure measures approximately 3.6 metres above ground level and the eaves measure 2.7 metres above ground level.

2 Planning History

No relevant planning history

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2018)

Paragraph 175 - Habitats and Biodiversity

Permission should be refused if significant harm to biodiversity would result which cannot be avoided, adequately mitigated or as a last resort compensated for. Development on land within or outside of a Site of Special Scientific Interest and which is likely to have an adverse effect on it should not normally be permitted. The only exception is if the benefits clearly outweigh both its likely impact on the features for which it is designated and any broader impacts on the national network of Sites of Special Scientific Interest. Development resulting in the loss of or deterioration of irreplaceable habitats should be refused unless there are wholly exceptional circumstances and suitable compensation strategy exists.

Peterborough Core Strategy DPD (2011)

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

Peterborough Planning Policies DPD (2012)

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

PP19 - Habitats and Species of Principal Importance

Permission will not be granted for development which would cause demonstrable harm to a habitat or species unless the need for, and benefits of it, outweigh the harm. Development likely to have an impact should include measures to maintain and, if possible, enhance the status of the habitat or species.

Peterborough Local Plan 2016 to 2036 (Submission)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this Proposed Submission version of the Local Plan took place in January and February 2018. The Local Plan was submitted to the Secretary of State on 26 March 2018 and the plan has now been examined. The Inspector's report is awaited.

Paragraph 48 of the National Planning Policy Framework states that decision makers may give weight to relevant policies in an emerging plan according to:-

- the stage of the Plan (the more advanced the plan, the more weight which can be given)
- the extent to which there are unresolved objections to the policies
- the degree of consistency between emerging policies and the framework.

The policies can be used alongside adopted policies in the decision making progress, especially where the plan contains new policies. The amount of weight to be given to the emerging plan policies is a matter for the decision maker. At this final stage the weight to be given to the emerging plan is more substantial than at the earlier stages although the 'starting point' for decision making remains the adopted Local Plan.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation.

National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered.

Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

4 Consultations/Representations

Victoria Park Residents Association

No comments received

Senior Landscape Technical Officer (20.11.2018)

No objections: The area of land is not Public Open Space and is currently unregistered with the Land Registry.

It would appear that the area which has been enclosed is an historic watercourse/drain. Therefore, we will defer to any comments or recommendation by PCC's Drainage Section.

PCC Wildlife Officer (20.11.18)

No objections: The Wildlife Officer has the following observations with regard to ecology:

i) Hedgehogs:

The proposal involves installing brick walls within an area of semi natural vegetation and which provides an important local habitat corridor for wildlife. In particular the site is highly likely to support hedgehogs which are a UK Biodiversity Action Plan priority species and listed as a Species of Principle Importance under s41 of the NERC Act 2006. I would therefore request that small gaps are provided on each section of wall to enable continued free movement of small mammals. This can easily be achieved by simply removing bricks from the base of the wall. This action should be implemented at the earliest opportunity, and evidence that it has been done may be secured via a suitably worded condition.

ii) Landscaping:

It is concerning that the existing vegetation appears to have been cleared and trees removed etc. I would therefore advise that some native hedging and/ or shrubs are reinstated in this area.

In addition, the application site may be subject to riparian rights, given that it forms a culverted section of a water course, and future access may be required for maintenance purposes etc. Therefore the construction of a building on this land is not recommended, as it may be required to be removed in the future.

Recommendation:

The works that are proposed/ have already been carried out at this site are not welcomed from a wildlife perspective. It is therefore important that the above recommendations are fully taken account of when determining this application, to enable a conclusion of no objection to be reached.

I can advise that subject to my recommendations being fully incorporated into the approved scheme the development will in my opinion result in no net loss in biodiversity.

Lead Local Drainage Authority (11.12.2018)

No objections: A survey of the watercourse is not required. As far as we understand, there are no inlets or outlets to this watercourse. However, it is likely that the watercourse still conveys ground water and overland flows from the surrounding land.

Therefore, under the Land Drainage Act a Land Drainage Consent would still be required for any works that would alter or affect the watercourse, in order to facilitate the existing land drainage function.

Tree Officer (06.02.2019)

No objections: the damaged tree has no limited or no public amenity value and thus would not be considered worthy of protection by a Tree Preservation Order. The condition of the tree is considered such that it should not be considered a constraint to development.

Local Residents/Interested Parties

Initial consultations: 5

Total number of responses: 27

Total number of objections: 13

Total number in support: 12

27 representations were submitted to the Local Planning Authority with regards to this retrospective application. 12 letters of support have received from local residents. 13 letters of objections have been received. The following matters are raised:

Letters of support

- The proposal would solve current problems associated with the area. There is also land to the rear of the resident's garden, who have found it to be a security concern as the area is not maintained, used, has been used as a dumping ground, has no lighting or security fencing hence allowing anyone to gain access to all houses on this side of Grimshaw Road.
- The land is not big nor does it serve any natural use and therefore development by the occupiers of No. 38 Grimshaw Road will only improve this area, provide more security and peace of mind.
- The proposal does not affect wildlife. Wildlife and birds are not residents.
- It is good to see residents clear up the area.
- An objector has approached local residents but he is not local to the area and the resident disagrees with his views on the application.
- A resident has advised that a leaflet was sent through the post against the proposal but disagreed with its intentions.
- The ditch is full of rubbish and unfriendly environmental items including asbestos, plastic, tyres etc.
- Rats appear to be the only active wildlife in this area.
- Trees along the corridor pose a health and safety risk given their large branches leaning across residential land.

Two representations were received who neither support or object to the retrospective proposal:

- This wall may be an area that wildlife can pass through, but so can burglars.
- If the applicant and other residents can make better use of the 'waste/dumping ground'; by turning it into a garden, this is all well and good as a garden is a corridor for wildlife.
- If the proposal is refused, the whole issue of this area needs to be looked at. Someone needs to take responsibility for its maintenance, including the removing of ash trees and non-native species so that other trees can grow unhindered.
- It should be noted that other residents have already encroached into this area.
- A primary concern across the ditch is security. Many years ago, arrangements were made to clear the land of rubbish and overgrown plants. Soon after, there were a number of thefts from sheds.
- The planning application should not be denied because it uses the strip of land.
- The Thomas Deacon Academy should not be given any rights over the land due to increased security risks

Objections received

Councillor Joseph

- It would seem that the proposed building is in direct contravention of the Habitats and Biodiversity policy and this needs to be reviewed before any irreversible damage is done to our local wildlife.

The following issues and objections have been raised by residents:

- The area comprises a semi-natural habitat and screen between the rear of residential properties

on Grimshaw Road and the school playing fields belonging to the Thomas Deacon Academy.

- Although no formal survey of the biodiversity value of this area has been carried out, observational evidence and recent informal surveys by local naturalists suggest that it has the potential to be a valuable refuge.
- This area forms a corridor which may well be used by mobile species of birds and mammals.
- It is an increasingly rare habitat type in the local area. Indeed, despite the relative proximity of Central Park - which is a formal, managed landscape - there is very little semi-natural green space in Park Ward.
- The proposal threatens to do irreparable damage to this semi-natural habitat and its functionality, removing any continuity along the corridor. It also compromises a riparian channel/drainage ditch.
- It removes the part of the screen between the residential properties and the school playing fields, which are used regularly for sports activities. As such, there would be a child protection issues particularly if windows are installed.
- A dangerous precedent would be set, where other residents may be inclined to simply extend the boundary of their own property, effectively a land grab.
- There is hardly any semi-natural green space in Park Ward, and it could set a dangerous precedent, whereby other residents may be inclined to simply extend the boundary of their own property to effectively stage a 'land grab'.
- If the land is sold to the applicant, please place a ban on removing the culvert.
- Wildlife is slowly disappearing due to the lack of vegetation.
- The Grimshaw Road Wildlife Corridor contains a wealth of flora and fauna and connects with a further wildlife corridor located along the eastern boundary of the Thomas Deacon Academy.
- The proposal, for the application for a storage building on the site at the southern end of the residential garden, will block off the whole width of the corridor. This will effectively create two smaller wildlife sites which will not allow the free movement of wildlife at ground level and so the existing wildlife will be constrained and less viable.
- The suggestion of gaps in the brick wall will offer only a partial solution because larger mammals will not be able to use them.
- The Head Groundsman of the Thomas Deacon Academy advises that badgers are in the area.
- In November 2002, Peterborough City Council published 'The Council's Approach to Biodiversity: Report of the Environment Select Panel'. It stated it would "Protect and enhance all sites and habitats of wildlife interest, including the provision of wildlife corridors to establish links between sites of known wildlife interest. It listed protected species such as bats, great crested newts, dormice and 400 species of invertebrates. It further stated that "even small areas of suitable habitat can be of high value to invertebrates.
- The retrospective works that have been carried out have destroyed valuable ground environments. This is based upon the existing wildlife habitat on adjacent sites, such as the removal of hawthorns which are capable of supporting holly blue butterflies.
- The proposal has already reduced insect life to the site, which bats rely upon these insects
- The ditch is an historic watercourse, as such there are likely to be riparian rights and responsibilities attached. The applicant appears to have ignored these rights and responsibilities.
- The site should be returned to its former condition.
- The Grimshaw Road Wildlife Corridor Group have identified dormice, hedgehogs, squirrels, foxes, toads, and possibly badgers and newts. Badger droppings have been seen by the head groundsman of the Thomas Deacon Academy. Newts were seen on the site several years ago and may still be present. Bats regularly feed above the wooded areas. There is also a wide variety of flora on the site including hawthorn and a rare Smooth Leaved Elm (*Ulmus Minor*). Also many wild birds use the site (several of which are declining in other areas and some which are protected). As such, the GRWC Group would like to see a professional wildlife survey carried out in the area.
- The proposed structures are not attractive. There are no details submitted to identify the specification of the brick and tile types used.
- The height of the retrospective building is excessive compared with a traditional garden shed.
- The height to the eaves of 2.7 metres is excessive, especially when it is viewed alongside the considerably lower (1.830m) boundary wall.
- No details have been provided with regards to the composition of the landfill material and whether there is an infringement of legal landfill and taxation costs.
- It is surprising that PCC could permit a development which is in contravention of riparian rights

and responsibilities. Who would take action?

- No comments have been received as to whether the proposal breaches the requirements of the PCC Biodiversity Strategy (December 2018) Objectives 1 'Biodiversity in Planning' and Objective 7 'Awareness raising'.
- Have Officers inspected adjacent sites and the remainder of the Grimshaw Road Wildlife Corridor. The application site is considered to be an important part of the corridor?
- There is no doubt that the site is frequented by dormice, bats and badgers (protected species).
- Natural England advise 'Access between setts and foraging / watering areas should be maintained or new ones provided.
- Has the local badger group been informed about the planning application?
- The ditch has a history of holding potential flood water at times of high rainfall and would have provided a refuge for amphibious creatures. In light of forecasts of heavier rainfall resulting from climate change, further encroachment of this ditch should not be permitted.

5 Assessment of the planning issues

The main considerations are:

- Impact on wildlife
- Impact on trees
- Drainage impacts
- Design and impact to the character and appearance of the site and the surrounding area
- Impact to neighbour amenity

a) Impact on wildlife

Several representations have been made as to whether this retrospective proposal unacceptably impacts upon the area's ecology. The site does not have any formal wildlife or ecological policy designation at either national or local level (such as County Wildlife Site designation, for example). The site comprises semi-natural vegetation which can provide local habitat for wildlife.

i) Hedgehogs

The Wildlife Officer indicates that the site is highly likely to support hedgehogs, which are on the UK Biodiversity Action Plan priority species and are listed as a 'Species of Principle Importance' under Section 41 of the Natural Environment and Rural Communities Act 2006. As such, the Wildlife Officer has advised that to ensure the continued movement of small mammals in this area, gaps should be provided in the base of the wall through the removal of one brick on each section of the wall. Given the importance of this mammal, this is considered to be reasonable request and shall be secured by condition.

The Wildlife Officer has advised that the gaps in the wall should be higher from ground level than one brick. This could be achieved by removing a second brick above the base brick, or by removing the soil below the base brick to get a similarly sized opening. The applicant has agreed to remove two bricks from ground level.

ii) Landscaping

In addition to the above, as a result of the works occurring retrospectively, it is the view of the Wildlife Officer that existing vegetation and trees have been cleared. To remediate this matter, the Wildlife Officer has advised that native hedging and/or shrubs should be reinstated in the area. The applicant has provided a planting scheme plan for the rear garden area that has been enclosed, which indicates that some of the proposed planting would match with the Wildlife Officer's suggestions, including Hawthorn, Blackthorn, Hazel, Dogwood, Field Maple, Holly, Guelder Rose and Alder Buckthorn. For the avoidance of doubt, this plan shall be secured by condition and an informative attached as to the vegetation that would be considered acceptable in this area.

The Wildlife Officer also advised that permitted development rights to construct further outbuildings

on the land hereby changing use should be removed. This is to allow for any maintenance to the parcel of ditch if needed and secondly, to maintain the landscaping scheme recommended by the Wildlife Officer as discussed in Section aii) 'Landscaping'. This is considered to be necessary and reasonable and a condition to this effect will therefore be imposed.

iii) Other wildlife matters

A variety of ecological concerns have been raised through representations received that have not been discussed above. These are considered below:

- Badgers:- The Wildlife Officer advises that there is no evidence of badgers within the surrounding area and even if they were present, it is not considered that the scheme would adversely impact upon them. The Wildlife Officer considers that if they were present, they would 'almost certainly' be accessing the neighbouring school grounds for foraging purposes and would have already created a gap under the school fence to do so. Furthermore, this section of garden would represent a small fraction of their territory which is not considered to be of significance.

- Local badger group consultation:- No consultation occurred with any local badger group nor is there any statutory requirement for the Local Planning Authority to do this. Surrounding neighbours were consulted alongside statutory consultees including the PCC Drainage Team, Senior Landscape Technical Officer and the Wildlife Officer. The matter of wildlife and badgers has been considered by the Wildlife Officer in this section.

- The impact of the retrospective outbuilding with its concrete slab:- The Wildlife Officer considers that the outbuilding on a concrete slab would not adversely impact local wildlife given its relatively small size. The issue of the wall is addressed under Section ai) 'Hedgehogs', which are considered to be the main species likely to be most affected by the wall. Mitigation measures are set out in this section.

- Infilling of land:- The applicant has advised that whilst the wall and shed have had foundations dug to support these structures, the land level of the ditch has not been altered. The foundations to these structures comprise ballast (a gravel and sand mix) and cement, which the applicant advises were purchased from a builders merchants (Andrews, Fengate). The Wildlife Officer advises however that given the scale of development against the wider ditch, there is no unacceptable harm to wildlife.

- Finally, Officers consider that hedgehogs and toads will be able to have continued movement through the area. It is also considered that badgers and foxes (if present) would not be unacceptably affected by the proposed scheme. A representation refers to potential harm to dormice, but it is considered that the likelihood of dormice in this area is highly unlikely. The replacement planting scheme should cater for any impacts to bird nesting habitat.

iv) Planning and wildlife legislation, strategies and policies

A representation submitted questions whether legislation, strategies and policies were being used to inform the comments written by the Wildlife Officer. The following were raised with the Wildlife Officer, who responded as follows:

- *The National Planning Policy Framework (2018) Section 15: 'Conserving and Enhancing the Natural Environment'* - The Wildlife Officer considers that the comments provided were proportionate to this application, ensuring that small mammals are able to continue to move through the area and that the replacement landscape planting is secured.

- *'Badgers and Development: A Guide to Best Practice and Licensing by Natural England - Interim Guidance Document (Revised 12/11)'* - The Wildlife Officer advises that there is no evidence of badgers in the local area. If badgers were using this area, it is considered that they would continue to have access to the main foraging areas i.e. the school grounds adjacent to the site.

- Paragraphs 2.16.1 and 2.16.3 of Policy PP16 of the Peterborough Planning Policies DPD (2012) - The focus of paragraph 2.16.1 relates to "priority" habitats. The Wildlife Officer advises that the application site is not considered to meet this definition. It is not considered that the application site is of 'major importance' for wildlife.

- PCC Biodiversity Strategy (adopted December 2018), specifically Objective 1: 'Biodiversity in Planning' and Objective 7: 'Awareness Raising' - The Wildlife Officer advises that under this planning application, Objective 1 has been adhered to, given that methods to minimise impacts to wildlife have been sought and can be secured through suitable and proportionate mitigation including for provision of continued movement of small animals and landscaping. For Objective 7, this is not directly relevant to planning, however the Wildlife Officer advises that regular training/awareness raising occurs across the Council.

Having considered all of the above matters and subject to the imposition of the conditions identified, it is considered that the proposal is acceptable in terms of ecological impacts and is in accordance with Policies PP16 and PP19 of the Peterborough Planning Policies DPD (2012) and Policy LP28 of the emerging Peterborough Local Plan (Examination Stage) (2018).

b) Impact on trees

The Tree Officer has advised that the tree to the rear of site has been harmed through works that have occurred to it. Whilst the impacts to trees are a material consideration, in planning terms for this application, this is not a reason to refuse the application because the tree had no existing protections (such as a Tree Preservation Order or being within a Conservation Area) and that it is not readily visible to view from the public realm and therefore has no significant public amenity value. Furthermore, such works could occur without planning permission. In light of this, the proposal is considered to be in accordance with Policy PP16 of the Peterborough Planning Policies DPD (2012) and Policy LP29 of the emerging Peterborough Local Plan (Examination Stage) (2018).

c) Drainage impacts

The PCC Drainage Officer has advised that the ditch serves no acceptable drainage function as it has no positive inlets or outlets. The Drainage Officer adds however that it is likely that the watercourse conveys groundwater and overland flows from surrounding land. The Drainage Officer has raised no objections to the application although the Officer has advised that Land Drainage Consent is required. This is separate legislation outside of the planning system and Land Drainage Consent does not need to be obtained before planning permission is granted. An informative on how to apply for land drainage consent will be added to the decision.

A number of the responses received refer to riparian rights over the ditch (land that is unregistered). However, the maintenance of this land through riparian rights and responsibilities is not a material planning consideration. The application cannot be resisted on this basis.

d) Design and impact to the character and appearance of the site and the surrounding area

The retrospective wall and outbuilding to serve No. 38 Grimshaw Road are considered to be subservient additions to the dwelling. Whilst the red brick utilised is visually different from the existing boundary treatments around the site and therefore appears out of keeping, the retrospective works are approximately 30 metres south of the No. 30 Grimshaw Road public highway. This distance is considered to be sufficient to avoid the proposal unacceptably impacting upon the character and appearance of the site and the surrounding area.

Furthermore, the rear garden can be built up to two metres in height without planning permission. A boundary treatment can be erected of any material without planning permission, whether the wall is constructed on land in ownership of the applicant or not.

Whilst in terms of design, it would be preferential to retain a continuous rear boundary, there have been other encroachments (at various lengths) from Grimshaw Road properties expanding their gardens. The nearest encroachment at No. 34 Grimshaw Road to the west. As such, it is not considered that the proposal would unacceptably impact upon the character and appearance of the site and the surrounding area.

On the basis of the above, the proposal is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP2 of the Peterborough Planning Policies DPD (2012) and Policy LP16 of the emerging Peterborough Local Plan (Examination Stage) (2018).

e) Impact on neighbour amenity

There are three neighbours that surround the side and rear boundaries of the application site. No. 36 Grimshaw Road and No. 40 Grimshaw Road are located to the west and east boundaries respectively. A playing field that serves The Thomas Deacon Academy is to the south of the site.

The boundary wall nearest to No. 36 Grimshaw Road is higher than the close board fence line that separates the gardens of No. 36 and No. 38 Grimshaw Road, but it is less in height than the fence to the rear-most boundary of No. 36 Grimshaw Road. Given its height and with the 3.6 metre high outbuilding sited near adjacent to the boundary of No. 40 Grimshaw Road, it is not considered that the retrospective wall would cause adverse overbearing or high levels of shadowing to the rear garden of No. 36 Grimshaw Road. The position of the outbuilding is considered to be appropriate to avoid unacceptable impact to the neighbouring garden.

No. 40 Grimshaw Road is the adjacent neighbour to the east. The boundary line between the dwellings is comprised of a breezeblock wall and close board fencing which share a similar height of approximately 2 metres from ground level. The retrospective outbuilding is positioned adjacent to the rear-most part of the garden. Although its roof would be visible from the neighbouring land, given its retrospective siting approximately 16 metres away from the rear elevation of the dwellinghouse, it is not considered that the single storey outbuilding causes adverse overbearing impacts on the dwellinghouse of No. 40 Grimshaw Road. In addition, shadowing from the proposal is restricted to the rear most areas of No. 40 Grimshaw Road's garden. As such, it is not considered that the harm is adverse.

Given the size and scale of the Thomas Deacon Academy and its surrounding land, it is not considered that the proposal would unacceptably impact upon its amenity. A representation received raised concerns about installing windows to the south elevation of the outbuilding that faces the school playing field. Given the security concern, plus that the outbuilding is for the use of storage and not for any habitable purposes, it is considered reasonable to remove permitted development rights to install windows in the outbuilding through a planning condition.

In light of the above, the proposal is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and Policy LP17 of the emerging Peterborough Local Plan (Examination Stage) (2018).

Other matters

The representations received also raised other matters and have not been considered above:

- Maintenance of the ditch: Any future maintenance of the wider ditch, whether purchased by the Thomas Deacon Academy or by other residents, is not a material planning consideration.

- Riparian rights and responsibilities:- This is not a planning matter. It is the applicant's responsibility to maintain the ditch. If residents are concerned that their riparian rights are affected by the works that have occurred, this would be a civil matter between themselves and the applicant.

- Structural integrity:- The wall and outbuilding do not require building regulations approval. This is not a material planning consideration.

- Infill and legal landfill and taxation costs: The infill of land has been discussed in Section 5 aiii). Whilst legal and taxation costs are not material planning considerations, the applicant has advised that only ballast and cement to make concrete foundations have been added. As this is not landfill disposal, this is not subject to landfill tax and therefore is not considered as an operation as such. Any turnover of top soil is also not considered to be a material planning consideration given that it is common practice of gardeners to do this.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The impact to the ecology of this site and the surrounding area would not be unacceptably harmed, subject to conditions, in accordance with Policies PP16 and PP19 of the Peterborough Planning Policies DPD (2012) and Policy LP28 of the emerging Peterborough Local Plan (Examination Stage) (2018).
- The proposal would not unacceptably impact upon the public amenity value of surrounding trees, in accordance with Policy PP16 of the Peterborough Planning Policies DPD (2012) and Policy LP29 of the emerging Peterborough Local Plan (Examination Stage) (2018).
- The function of the drain would not be adversely affected by the proposed development.
- The character and appearance of the site and the surrounding area would not be adversely impacted upon by the proposed works, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP2 of the Peterborough Planning Policies DPD (2012) and Policy LP16 of the emerging Peterborough Local Plan (Examination Stage) (2018).
- The proposal would not unduly impact upon the amenity of surrounding neighbours, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and Policy LP17 of the emerging Peterborough Local Plan (Examination Stage) (2018).

7 Recommendation

The Director of Growth and Regeneration recommends that Planning Permission is **GRANTED** subject to the following conditions:

C 1 The development hereby permitted shall be carried out in accordance with the following approved plans

- Location Plan 1:1250
- Existing and Proposed Block Plans (received 7 November 2018)
- Proposed Elevations and Floor Plan (received 7 November 2018)
- Wildlife and Vegetation Planting Scheme (received 12 December 2018)

Reason: For the avoidance of doubt and in the interests of proper planning.

C 2 Within one month of the date of this decision, a minimum of two holes shall be created at ground level through the retrospective walls; hereby permitted. One hole shall be created to the rear-most boundary wall, the second hole shall be created through the west-most boundary wall. Each hole created shall measure 150mm in height and measure 200mm wide. These holes shall be kept clear, be maintained and retained as such thereafter.

Reason: To ensure adequate passage to allow of small mammals, in accordance with Policies PP16 and PP19 of the Peterborough Planning Policies DPD (2012) and Policy LP28 of the emerging Peterborough Local Plan (Examination Stage) (2018).

- C 3 The planting scheme to the rear of site (Wildlife and Vegetation Planting Scheme (received 12 December 2018)); hereby permitted shall be planted before the end of the next available planting season and maintained thereafter. If any native plants die, get removed or become diseased within five years of the implementation of the scheme, the vegetation shall be replaced during the next available planting season by the applicant, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement vegetation that dies within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: To preserve and maintain the surrounding area's biodiversity value, in accordance with Policy PP16 of the Peterborough Planning Policies DPD (2012) and Policy LP28 of the emerging Peterborough Local Plan (Examination Stage) (2018).

- C 4 Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no windows shall be fitted into any elevation of the outbuilding hereby permitted, unless expressly authorised by any future planning permission.

Reason: In order to ensure the amenity of the nearby school playing field, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and Policy LP17 of the emerging Peterborough Local Plan (Examination Stage) (2018).

- C 5 Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no outbuildings other than the outbuilding hereby permitted; shall be constructed on the land changing use to garden, unless expressly authorised by any future planning permission.

Reason: To ensure native planting is retained and to ensure access to the ditch for maintenance purposes in accordance with Policy PP16 of the Peterborough Planning Policies DPD (2012) and Policy LP28 of the emerging Peterborough Local Plan (Examination Stage) (2018).

Copies to Councillors Joseph and Nawaz