

## **Amenity Impact Assessment**

### **Proposed Development at Low Lane, Holbeach**

**Erection of four detached two-storey dwellings,  
one detached garage and demolition  
of existing bungalow**

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This report has been prepared in response to the amenity impact comments as raised during the consultation stage of Planning Application H09-1094-21. The following text applies measurable and tangible rationale to the notion of 'overbearing' and loss of outlook. Quantifiable examples have been highlighted to demonstrate that the proposed development has a negligible impact upon the amenity and living conditions to the occupiers of the property known as The Chestnuts and these conditions are maintained to an acceptable standard.

Due consideration has been given to the design and layout of the proposed dwellings during the pre-application stage with regard to the impact on privacy and amenity of adjoining properties. The term 'overbearing' is used to describe the impact of a development or building on its surroundings, particularly a neighbouring property, in terms of its scale, massing and general dominating effect.

Residential amenity is not defined in law, but in planning terms, 'amenity' is often used to refer to the quality or character of an area and elements that contribute to the overall enjoyment of an area. Residential amenity considers elements that are particularly relevant to the living conditions of a dwelling.

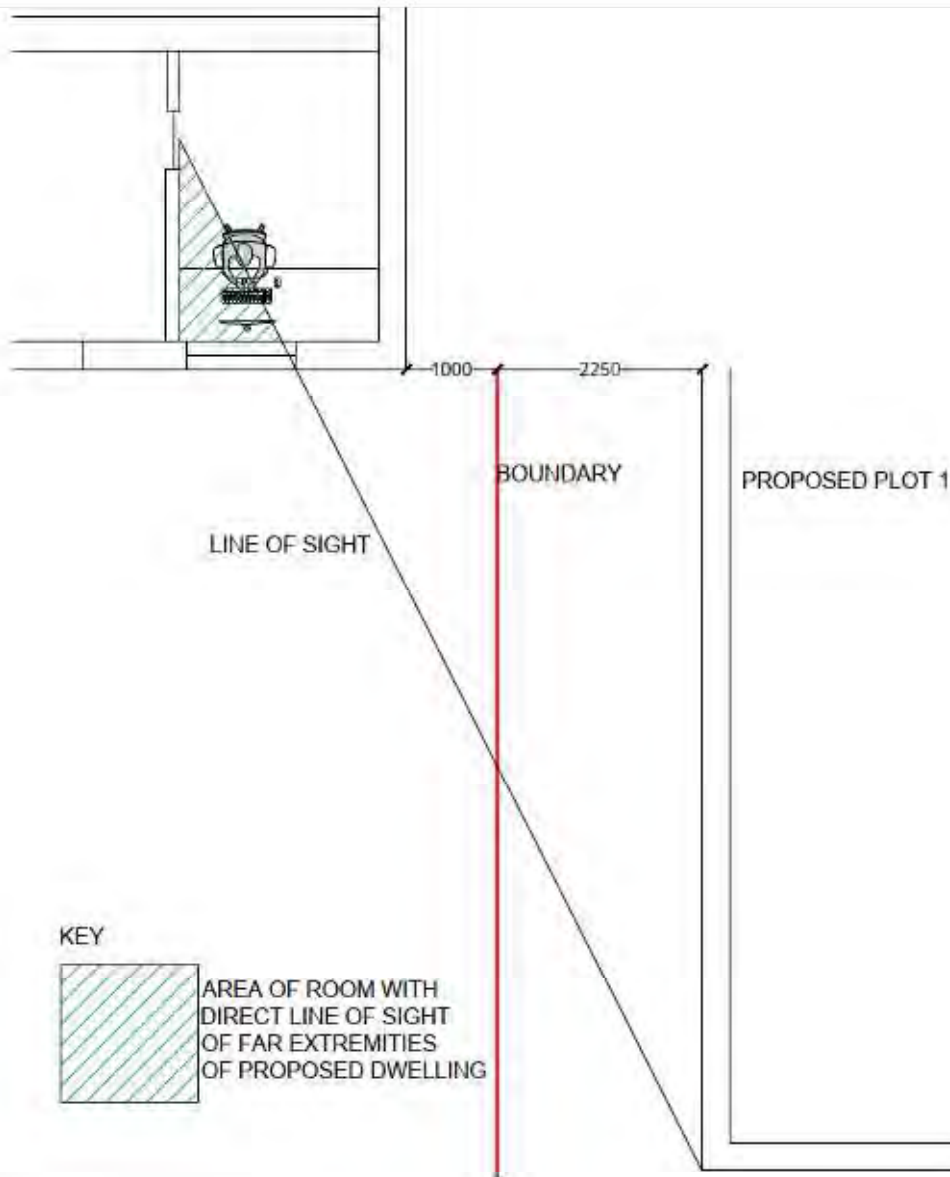
For the purposes of assessing the impacts of development on residential amenity 'outlook' is taken to mean what you look out on to, such as the prospect from a window serving primary living accommodation.

*BRE 209 Site Layout Planning For Daylight and Sunlight A Guide To Good Practice* makes no reference to overbearing in its entire text and deals purely with daylight and sunlight issues. However, it does refer to sun on the ground to amenity areas. The Daylight and Sunlight Assessment as submitted as part of the application clearly demonstrates that the proposed development will have no adverse material impact upon the property known as The Chestnuts in terms of daylight and sunlight.

In terms of 'overbearing' and 'outlook' in relation to occupiers of rooms within The Chestnuts, the proposed dwelling on Plot 1 would clearly have to be visible by the occupants of said rooms going about their normal daily activities for this to be an issue.

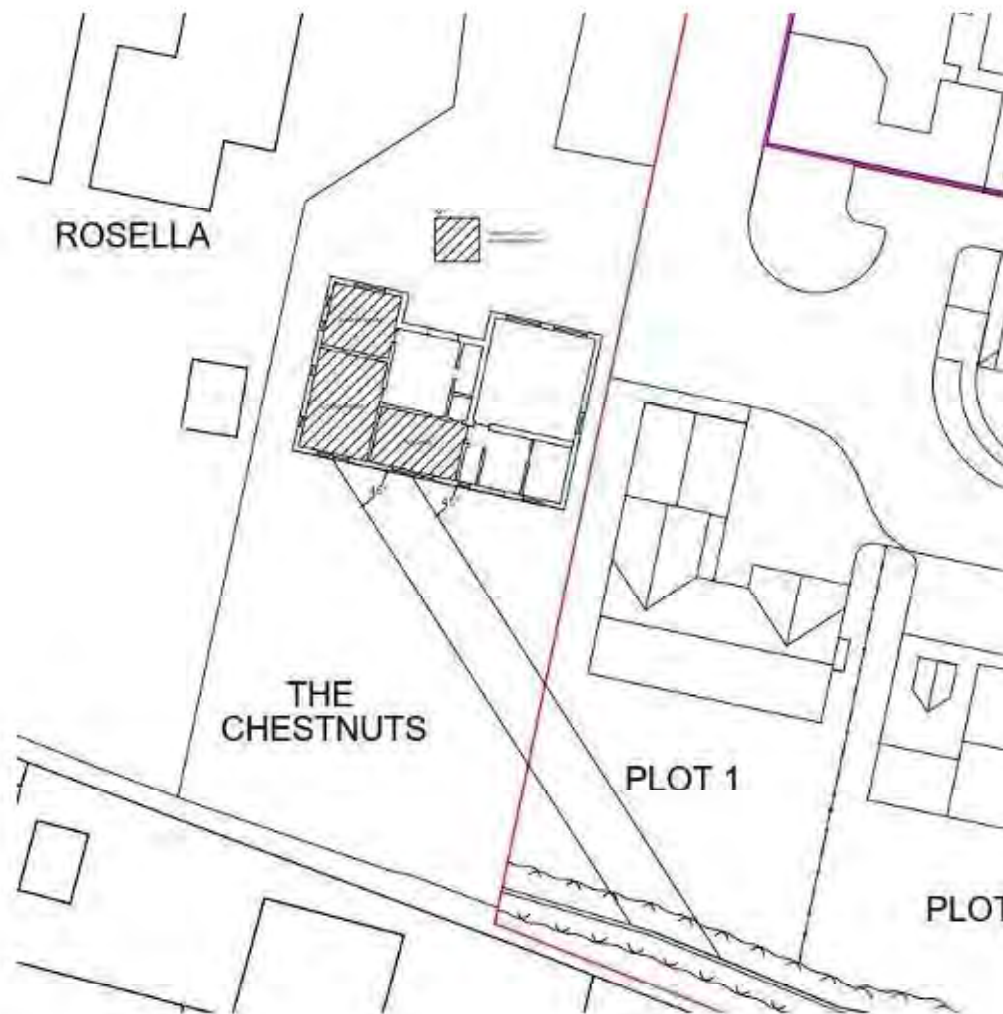
The nearest affected room is the one, according to information obtained through public records, was designated as a 'study' in the original planning application, the current use is unknown but previous owners have used this as a store room since having a floor area of only 7.04m<sup>2</sup> this is less than the minimum recommended for a single bedroom (7.5m<sup>2</sup>) according to the *Department for Communities and Local Government Technical Housing Standards Nationally Described Space Standard March 2015*. It could therefore be attested that this room could be discounted for the purpose of being of a size suitable for use as a habitable room, it certainly cannot be defined as primary living accommodation, but for the objectives of this analysis will nevertheless be included.

A person sat at a desk positioned under the window in the 'study' (Figure 1) will not have a direct line of sight of the west facing wall of the proposed dwelling to Plot 1. In fact, only users of 17.7% of the room (which equates to 0.46% of the Gross Internal Floor Area of The Chestnuts) designated 'study' will have a direct line of sight of the far extremity of the western wall to Plot 1 and this area of the room is extremely unlikely to be used during normal day to day activities.



(Figure 1)

Using the nationally recognised 45-degree test to assess the impact on outlook to existing neighbouring dwellings a line is drawn on plan at an angle of 45-degrees extending in a south easterly direction from the centre of the window serving the Kitchen and from the centre of the patio doors to the Living Room (designated primary living accommodation in terms of outlook when looking out from within the dwelling). Under this test, no part of a building should break an angle of 45-degrees. Referring to Figure 2 below, this test places the proposed development on the acceptable side of the 45-degree lines therefore the proposed dwelling to Plot 1 will have no adverse impact on the users of these rooms in terms of outlook applying nationally recognised planning guidance.



(Figure 2)

Further weight is added to the above by the fact that the Vertical Sky Component (as detailed within the submitted Daylight & Sunlight Assessment) for the 'study' (32.634654%) is 0.99 of the former value once the proposed development has been implemented with an increase in VSC to the kitchen (36.888155%) 1.03 of the former value and lounge (36.504258%) 1.02 of the former value after the development is completed.

Similarly, the Daylight Distribution (No Skyline) analysis carried out as part of the Daylight & Sunlight Assessment which takes into account the floor area of the rooms together with depth to width ratios, reveals that there is no reduction in the DD values to all of the rooms analysed with the proposed development completed. For the proposed development to have an adverse material impact on the outlook from any of the rooms analysed served by windows on the rear elevation of The Chestnuts one would expect to witness a reduction in these values.

It is therefore concluded that the proposed development of Plot 1 cannot be considered to have a significant adverse material impact upon the occupants of habitable rooms from within The Chestnuts in terms of outlook and overbearing with no significant visual intrusion occurring. Acceptable levels of outlook are evidently maintained, and thus internal living conditions are unaffected.

With regard to the rear garden of The Chestnuts no recognised publication is known to exist which clearly defines overbearing in relation to a side development adjoining an existing garden. However, nationally accepted guidance is published as to what is deemed overbearing in relation to a side wall of a new two storey building facing a rear elevation of an existing two storey building, this is known as the 12-metre rule. This is referenced in various applications, nationally and locally.

Referencing the Case Officers report pertaining to application H05-0668-20 the 12-metre rule is seen as a material consideration with the Case Officer stating *"acceptable in terms of overbearing effect provided that the separation distance is 12 metres. Should the distance be shorter, the harm upon the amenity of residents nearby might turn out excessively detrimental"* (Figure 3).

Furthermore, referencing application H09-0602-20, the separation distance between the rear elevation of an existing single storey bungalow (with a garden depth of only 9 metres) and the proposed side elevation of a two storey dwelling is deemed to be adequate by the Case Officer at a reduced distance of only 10.3 metres (Figure 4).



(Figure 3)

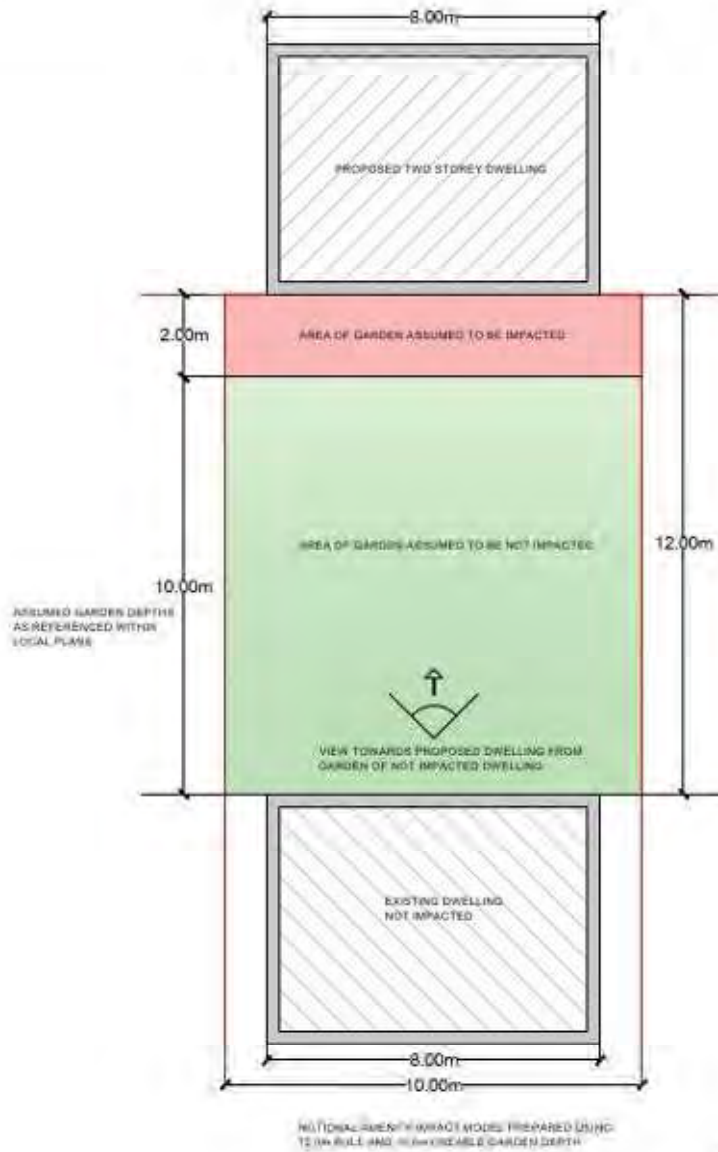


(Figure 4)

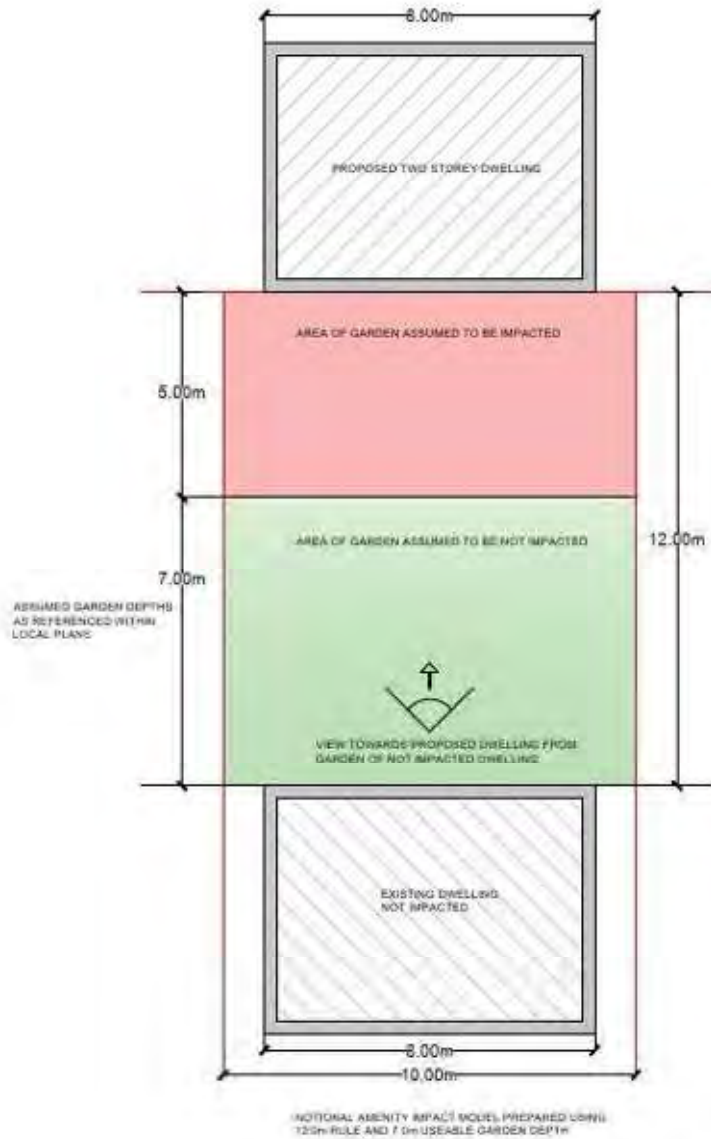
It can be deduced from this rule that the occupiers of the existing dwellings greater than 12 metres from any proposed two storey building positioned directly opposite the windows of the habitable rooms will not find the new two storey development overbearing. This demonstrates that SHDC consider the 12-metre rule in determination of applications in which there is a rear elevation exposure.

The 12-metre rule can therefore be used as a baseline to assess scenarios of varying layouts and orientation. In the scenarios below, the 12-metre rule has been used within a notional model to extrapolate the impacted area of a property which would be deemed to have an overbearing effect to residential amenity areas. Generally, Local Plans contain advice on the suggested minimum garden depths and areas. This ranges from between 7.00 metres to 10.00 metres deep with the higher percentage recommending and minimum garden depth of 10.00 metres.

Two notional models have therefore been built with required garden depths of 10.00 metres and 7.00 metres using the 12-metre separation rule.



(Figure 5)



(Figure 6)

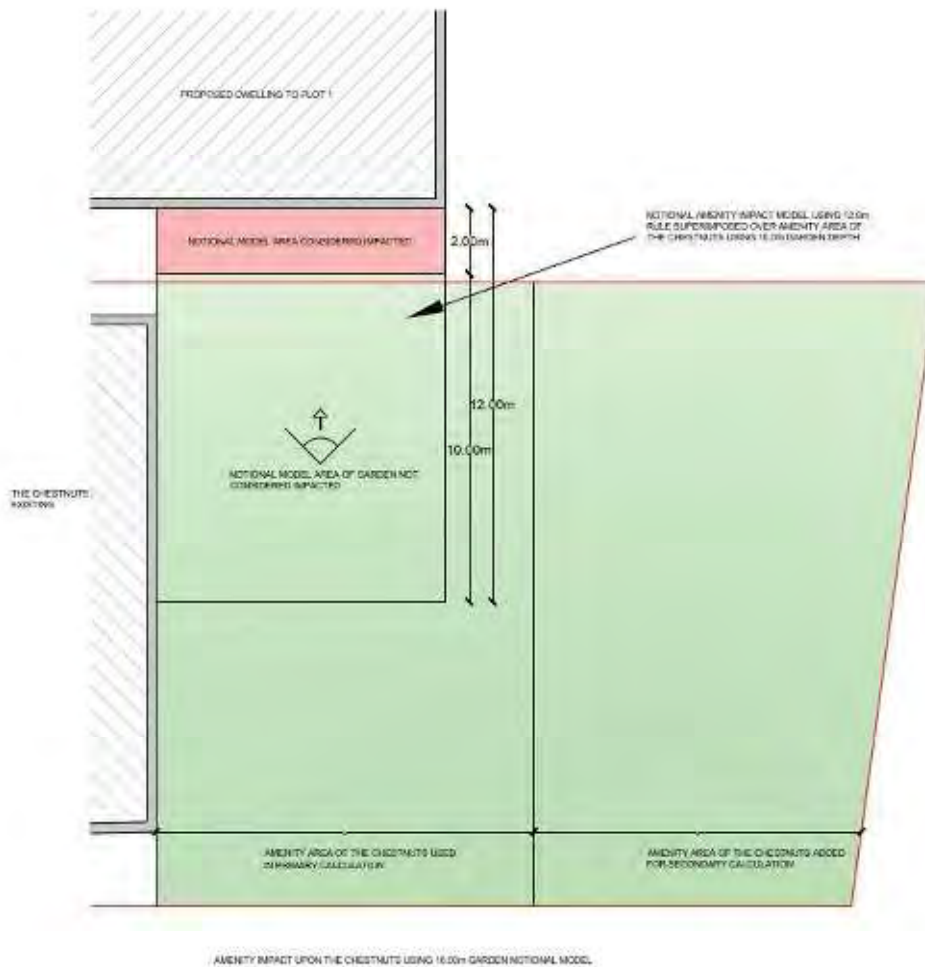
Applying a minimum garden depth of 10.00 metres, using the 12.00-metre separation rule, this would equate to 100% of the garden being greater than 2.00 metres away from the proposed dwelling. Therefore, by deduction, users of this 10.00 metre section of garden would not find the proposed dwelling overbearing (see figure 5).

Applying a minimum garden depth of 7.00 metres, using the 12.00-metre separation rule, this would equate to 100% of the garden being greater than 5.00 metres away from the proposed dwelling. Therefore, by deduction, users of this 7.00 metre section of garden would not find the proposed dwelling overbearing (see figure 6).

This criteria for 12-metre separation has therefore been applied to the current application referencing the notional models as a tangible and quantifiable baseline.

For a person standing in the garden to The Chestnuts and facing east, that is directly towards the western elevation of the proposed dwelling to Plot 1, the garden depth of The Chestnuts would be approximately 19.00 metres. The distance from the western elevation of the proposed dwelling to Plot 1 to the farthest boundary directly behind the observer would therefore be 21.250 metres.

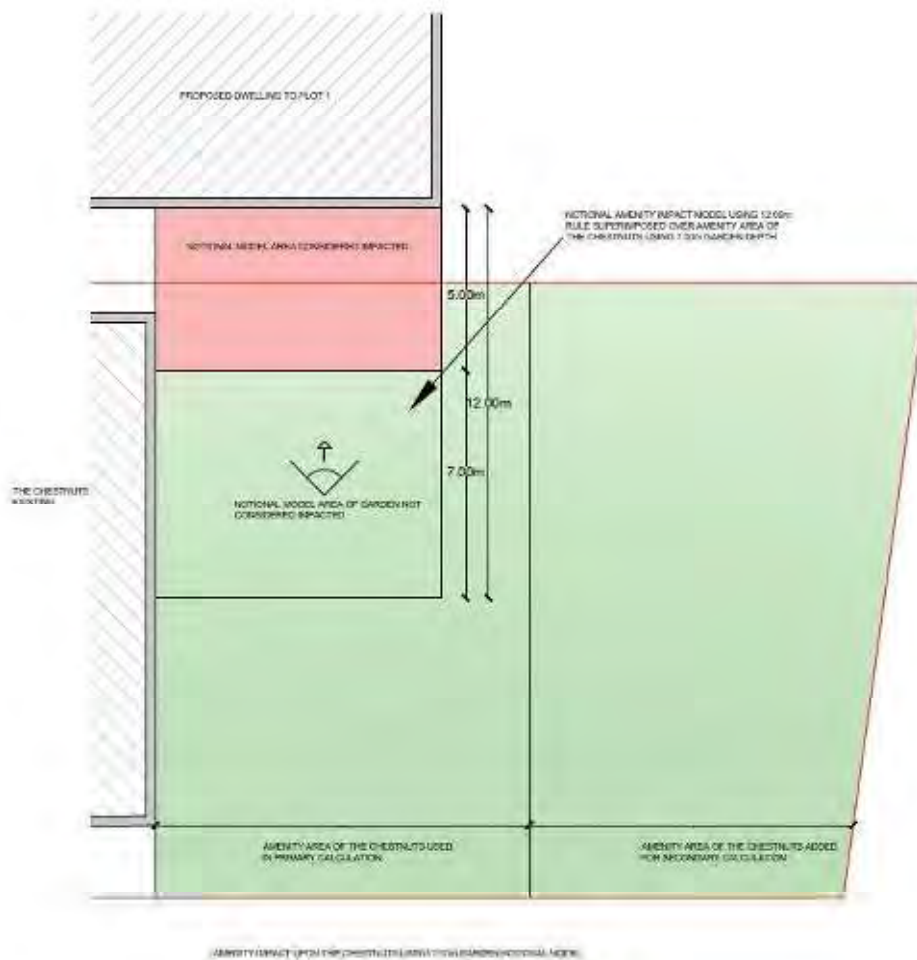
Applying the 12.00-metre rule using the notional model with a required garden depth of 10.00 metres and 100% of the garden being a minimum of 2.00 metres from the proposed dwelling, interpolating this to The Chestnuts the proposed layout equates to an improvement of 190% in relation to amenity impact when compared to the notional model. See Figure 7 below.



(Figure 7)

Applying the 12-metre rule using the notional model with a required garden depth of 7.00 metres and 100% of the garden being a minimum of 5.00 metres from the proposed dwelling, interpolating this to The Chestnuts the proposed layout equates to an improvement of 232% in relation to amenity impact when compared to the notional model. See Figure 8.





(Figure 8)

It should be noted that in the preparation of these calculations the distance to the boundary running parallel to the southern elevation of The Chestnuts is assumed to extend out from the southern elevation by approximately 11.5 metres which reflects the amenity area most in use. If one factors in the remaining approximately 200m<sup>2</sup> of amenity area available to The Chestnuts, then the improvements in amenity impact when related to the notional models increase to 390% and 432% respectively. This is indicated as on Figures 7 & 8 as secondary calculations. This applies a degree of quantitative objectivity to that which is subjective by demonstrating in mathematical terms using a notional model how the magnitude of perceived overbearing by an observer of a two storey building is relative not only to the observer's distance from that building but also to the confines and dimensional constraints of the space from which the observation occurs.

Using national recognised recommended building separation distances it can clearly be seen that the impact of the proposed dwelling to Plot 1 upon users of the amenity area to The Chestnuts will be significantly less than that experienced by users of the residential amenity area when applying the nationally recognised 12-metre separation rule.

Therefore, applying a degree of consistency, it is reasonable to deduce that the proposed development to Plot 1 will not be overbearing to the users of the rear garden to The Chestnuts, also taking into account this is a side to side relationship and not a rear elevation to side elevation relationship which is far more harmful.

The above can also be corroborated by referring to previous Planning Applications deposited with South Holland District Council. The following applications were not deemed to be overbearing in relation to existing properties and are seen to be far more harmful in terms of overbearing and outlook than that which is currently under consideration.

<b>Planning Reference</b>	<b>Description</b>	<b>Decision</b>
H16-0935-21	Rear of 175 Hawthorn Bank Spalding PE11 2UN	Approved
H05-0668-20	37 Fleet Road Fleet Spalding PE12 8LA	Approved
H05-0326-20	37 Fleet Road Fleet Spalding Lincs PE12 8LA	Appealed Allowed
H01-0576-20	6A Backgate Cowbit Spalding PE12 6AP	Approved
H23-0111-21	Off Broadgate Whaplode Drove Spalding PE12 0TN	Approved
H23-0714-20	Adj. Corner House Churchgate Whaplode Spalding PE12 6TA	Approved
H21-0674-20	1 Station Road Tydd Gote Wisbech PE13 5QA	Approved
H09-0045-20	34 Fen Road Holbeach Spalding PE12 8QA	Approved
H09-0602-20	Land north of Northons Lane and Oakwood Glade Holbeach Spalding	Approved
H09-0562-17 & H09-0240-20	Land off Northons Lane Holbeach Spalding Lincs PE12 7PZ	Approved

Referencing Planning Application H16-0935-21 as a particularly comparable application for the erection of a two-storey detached dwelling and detached garage (Figure 8). An examination of this application gives rise to the fact that it is very similar to the one under consideration in terms of scale, mass, and potential dominating effect. The nearest distance of the two-storey dwelling to the boundary of the impacted, house number 177 Hawthorn Bank, is 1.3 metres compared with 2.25 metres to the boundary of the proposed development to that of Plot 1. Ridge height and gable mass are similar, but the major difference being that the whole of the development extends back beyond the rear elevation of 177 Hawthorn Bank.

Drawing 45-degree lines on plan, extending in a north westerly direction from the centre of all the windows on the rear elevation of 177 Hawthorn Bank places the proposed two storey development on the impacted dwelling side of the 45-degree line which is clearly far worse than the application under consideration.

When applying a degree of professional judgement, using the same recognised planning guidance relating to outlook and overbearing, it is impossible to arrive at a different conclusion other than the impact of the proposed development to Plot 1 upon the amenity of the property known as The Chestnuts is far less than the impact of the two storey development to the rear of 175 Hawthorn Bank on the property known as 177 Hawthorn Bank which was approved on the 10 November 2021.



(Figure 8)

When applying accepted criteria defined as a material consideration it can be deduced using professional integrity, honesty, and consistency that the proposed development to Plot 1 will not have an adverse material impact upon the amenity to The Chestnuts.

Furthermore, evidence gleaned from a Freedom of Information request pertaining to Planning Application H09-0801-20 (Erection of four detached two-storey dwellings, two detached garages and demolition of existing bungalow at 47 Low Lane Holbeach) confirms that this previous application on the same site was not deemed to be overbearing when assessed in a previous form (Appendix A).

This application (Appendix A) was recommended for delegated approval to The Chairman's Panel by the Case Officer which met on the 22 January 2021. A copy of the Chairman's Panel Report presented to the Attendees is included within Appendix B. The Case Officer within his report, under residential amenity states:

*"the occupiers of The Chestnuts would enjoy daylight from the habitable rooms and no unacceptable overshadowing would occur by reason of the development. The separation distances among the new houses as well at the houses and the site boundaries range approximately between 2 and 3 metres. Given the scale and height of the new houses would be similar to the existing properties, the development would appear overbearing to none of the residents. The gable pitch of the house in Plot 1 has been reduced to approximately replicate the ridge height of The Chestnuts and mitigate any unacceptable overbearing impact."*

Those attending the Chairman's panel, in addition to Senior Planning Officers and Senior members of the Planning Department were Councillor Avery, Councillor Gamba-Jones and Councillor Alcock. All Councillors present were "happy with a delegated approval" (Appendix C) after giving due consideration to the objections submitted by residents during the consultation stage (including that of overbearing, overshadowing, loss of outlook and the proximity of Plot 1), statutory consultations and material considerations.

Subsequently, following the Chairman's Panel and the unanimous decision to proceed with the Case Officers delegated authority for Approval, the Case Officer emailed the Applicant (Appendix D) on 25 January 2021 confirming the outcome of the Chairman's Panel and that two conditions should be agreed prior to the issue of the Decision Notice.

The Notice of intention to impose pre-commencement conditions at 47 Low Lane Holbeach (application ref. H09-0801-20) can be found within Appendix E of this document. Issued to the Applicant from the Case Officer on 25 January 2021 the notice explicitly states that:

*"Section 100ZA of the Town and Country Planning Act 1990 (the 1990 Act) provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition."*

Paragraph 8 of section 100ZA of the Town and Country Planning Act defines a pre-commencement condition.

*"Pre-commencement condition" means a condition imposed on a grant of planning permission (other than a grant of outline planning permission within the meaning of section 92) which must be complied"*

A pre-commencement condition is imposed on a grant of planning permission. This adds considerable weight to the premise that this previous application on the same site was not deemed to be overbearing when assessed in a previous form. (Appendix A). On the 26 January 2021 the Applicant formally responded to the Notice agreeing to the terms of the conditions.

The proposed dwelling to Plot 1, as detailed in the current application (H09-1094-21), has a reduced wall plate to wall plate depth and reduced ridge height, when compared to the one presented to the Chairman's Panel on 22 January 2021 (H09-0801-20). Senior members of the Planning Department and the Chairman's Panel agreed with the Case Officers report and conclusion that the proposed dwelling on Plot 1 was not considered to be overbearing to the property known as The Chestnuts in its previous form which is considered to have a higher impact than that which is currently under consideration.

Applying a degree of planning consistency and considering the present application has a lesser impact than the application previously agreed for delegated approval by the Chairman's Panel, the only conclusion must be that the dwelling to Plot 1 presented in the current application will not have a significant adverse material impact on the property known as The Chestnuts in terms of outlook and overbearing and certainly not to the extent that it disturbs the presumption in favour of approval.

### **Conclusion**

An objective assessment of the development, and supporting material, with reference to measurable evidence and nationally and locally accepted criteria, leads to the inevitable conclusion that there is no significant adverse material impact on the adjoining property known as The Chestnuts in terms of scale, mass, dominating effect and outlook.